

EXHIBIT G

WILLIAM JOSEPH WAGNER

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

WILLIAM J. WAGNER,

Plaintiff,

- vs - Civil Action No.
15-CV-633

CHIARI & ILECKI, LLP,

Defendant.

Examination before trial of **WILLIAM
JOSEPH WAGNER**, Plaintiff, taken pursuant to the
Federal Rules of Civil Procedure, in the
LAW OFFICES OF KENNETH HILLER, 6000 North Bailey
Avenue, Suite 1A, Amherst, New York, on October 3,
2016, commencing at 10:16 a.m., before MARY
SCHULZE, RPR, RMR, Notary Public.

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1 APPEARANCES: LAW OFFICES OF KENNETH HILLER,
2 By SETH J. ANDREWS, ESQ.,
3 6000 North Bailey Avenue,
4 Suite 1A,
5 Amherst, New York 14226,
6 (716) 564-3288,
7 sandrews@kennethhiller.com,
8 Appearing for the Plaintiff.

9
10 CONNORS LLP,
11 By PAUL A. WOODARD, ESQ.,
12 1000 Liberty Building,
13 Buffalo, New York 14202-1687,
14 (716) 852-5533,
15 paw@connorsllp.com,
16 Appearing for the Defendant.

10:14:17 10 THE REPORTER: Mr. Woodard, are you
10:16:48 11 providing Mr. Andrews with a copy of the
10:16:49 12 transcript?

10:16:50 13 MR. WOODARD: Yes, please.

10:16:50 14

10:17:23 15 W I L L I A M J O S E P H W A G N E R,
10:17:24 16 5419 Roberts Road, Hamburg, New York 14075, after
10:17:25 17 being duly called and sworn, testified as follows:

10:17:25 18

10:17:25 19 EXAMINATION BY MR. WOODARD:

10:17:25 20

10:17:30 21 Q. Good morning, Mr. Wagner.

10:17:31 22 A. Good morning.

10:17:32 23 Q. We met a few minutes ago. As I

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10:17:35 1 mentioned, my name's Paul Woodard. I represent the
10:17:36 2 Defendant Chiari & Ilecki here today.

10:17:38 3 **A.** Mm-hmm.

10:17:38 4 **Q.** We're going to ask you a few questions
10:17:39 5 about -- about this case.

10:17:41 6 **A.** Mm-hmm.

10:17:41 7 **Q.** Have you ever been deposed before?

10:17:43 8 **A.** No.

10:17:43 9 **Q.** All right. Let's just go over a few
10:17:46 10 sort of the ground rules first, then, okay?

10:17:48 11 The first thing is when I ask you questions,
10:17:52 12 it's important to give a -- an answer, yes or no,
10:17:56 13 verbal answer rather than nodding your head or
10:17:59 14 saying mm-hmm, uh-huh. In everyday life, it's easy
10:18:02 15 to do one of those things. But for the sake of our
10:18:04 16 court reporter and keeping the -- the record clear,
10:18:07 17 we'll ask you to say yes, no, or whatever the
10:18:09 18 correct answer is?

10:18:10 19 **A.** Okay.

10:18:11 20 **Q.** The next thing is it's also important
10:18:13 21 that we each talk one at a time instead of trying
10:18:16 22 to talk over each other. I know it's easy; when I
10:18:19 23 ask you a question, you're probably going to

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10:18:20 1 anticipate what I'm going to ask you, and it's easy
10:18:23 2 to jump in and supply an answer before I finish my
10:18:25 3 question. But I'll ask you just to let me finish
10:18:28 4 my question, again, so our court reporter can get
10:18:30 5 everything down.

10:18:31 6 **A.** Mm-hmm.

10:18:31 7 **Q.** And I'll also in -- in turn try to
10:18:33 8 respect you and make sure that -- well, I'll
10:18:35 9 certainly respect you, but I'll try not to
10:18:38 10 interrupt you, I should say, and allow you to
10:18:40 11 finish your answer before I ask you the next
10:18:42 12 question. All right?

10:18:42 13 **A.** Okay.

10:18:43 14 **Q.** If you don't hear or understand a
10:18:44 15 question, please just let me know. I'll be happy
10:18:47 16 to repeat it or rephrase it. And, otherwise, we'll
10:18:51 17 assume that you understood and heard the question.

10:18:53 18 **A.** Mm-hmm.

10:18:53 19 **Q.** Okay?

10:18:54 20 **A.** Yes. I'm already starting.

10:18:58 21 **Q.** It's easy. I'll get you as we -- as we
10:19:01 22 go along. But it's easy to slip into that.

10:19:04 23 If you need a break at any time, feel free

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10:19:07 1 to say so and we'll -- we'll be happy to -- to
10:19:10 2 break.

10:19:10 3 And if, over the course of the deposition,
10:19:14 4 if I ask you a question and you don't remember the
10:19:16 5 answer, later on in the deposition, something pops
10:19:19 6 in your head, feel free to volunteer it, or if
10:19:21 7 there's anything that you want to supplement in the
10:19:23 8 middle of this deposition, feel free to volunteer
10:19:26 9 whatever that information is.

10:19:27 10 A. Okay.

10:19:27 11 Q. What, if anything, did you do to
10:19:31 12 prepare for this deposition today?

10:19:33 13 A. I met with Mr. Andrews.

10:19:38 14 Q. Anything else?

10:19:39 15 A. No.

10:19:41 16 Q. Did you speak with anyone other than
10:19:44 17 your attorney?

10:19:45 18 A. No.

10:19:45 19 Q. Okay. Did you look at any documents?

10:19:50 20 A. With my attorney? Yes.

10:19:55 21 Q. Okay. And what documents did you look
10:19:56 22 at to prepare for the deposition?

10:19:58 23 A. Of course there's the complaint,

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10:20:05 1 there's some interrogatories, and there's a --
10:20:11 2 notes from the other law firm or whatever.

10:20:15 3 Q. Anything else you took a look at?

10:20:17 4 A. I can't remember anything else at this
10:20:18 5 point.

10:20:18 6 Q. Okay. Other than those documents, did
10:20:23 7 anyone read you any portions of -- of other
10:20:26 8 documents?

10:20:26 9 A. Not that I can remember.

10:20:30 10 Q. Okay. Have you ever been a party to a
10:20:34 11 lawsuit before?

10:20:35 12 A. No.

10:20:35 13 Q. Have you ever testified at trial
10:20:38 14 before?

10:20:39 15 A. No.

10:20:39 16 Q. Have you ever testified at an
10:20:43 17 administrative hearing before?

10:20:45 18 A. No. Not that I can remember.

10:20:47 19 Q. Okay. Are you on any medications that
10:20:50 20 might affect your ability to recall today?

10:20:53 21 A. No.

10:20:56 22 Q. When and where were you born, sir?

10:20:58 23 A. Buffalo, New York. [REDACTED] 1950.

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10:21:03 1 Q. Have you lived in the Western New York
10:21:06 2 area your entire life?

10:21:08 3 A. Yes. Yes.

10:21:09 4 Q. Have you ever been known by another
10:21:13 5 name?

10:21:13 6 A. No.

10:21:14 7 Q. And your name is -- is William
10:21:16 8 J. Wagner; is that correct?

10:21:16 9 A. Yes.

10:21:17 10 Q. Does your name have a suffix?

10:21:20 11 A. No.

10:21:20 12 Q. So -- so your name is not William
10:21:23 13 J. Wagner, Jr., for instance?

10:21:24 14 A. My name is not William J. Wagner, Jr.

10:21:26 15 Q. Okay. And -- and you've never gone by
10:21:28 16 that name before?

10:21:29 17 A. I have never gone by that name.

10:21:31 18 Q. Okay. Are you currently married?

10:21:32 19 A. No. I'm divorced.

10:21:34 20 Q. And during what time period were you
10:21:41 21 married?

10:21:41 22 A. 1970 to 2009.

10:21:47 23 Q. And were you married on one occasion

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10:21:53 1 only, then?

10:21:53 2 **A.** Yes. Only one.

10:21:56 3 **Q.** What was your wife's name?

10:21:59 4 **A.** Julia.

10:22:00 5 **Q.** And did she -- was it Wagner? Julia

10:22:07 6 Wagner at the time?

10:22:07 7 **A.** Yeah.

10:22:08 8 **Q.** Okay.

10:22:08 9 **A.** She took my name.

10:22:10 10 **Q.** Do you have any children?

10:22:14 11 **A.** Yes.

10:22:14 12 **Q.** How many children do you have?

10:22:15 13 **A.** Two.

10:22:16 14 **Q.** What are their names?

10:22:20 15 **A.** William and Andrew.

10:22:23 16 **Q.** And are both those children with your

10:22:31 17 wife Julia?

10:22:32 18 **A.** No. They're grown adults.

10:22:33 19 **Q.** But -- but you had them with your wife

10:22:36 20 Julia, not someone else?

10:22:36 21 **A.** Oh, I'm sorry. Yes.

10:22:37 22 **Q.** That was not -- it wasn't a clear

10:22:39 23 question.

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10:22:39 1 **A.** Yes.

10:22:40 2 **Q.** I apologize for that.

10:22:41 3 How old is William?

10:22:44 4 **A.** William is 38.

10:22:47 5 **Q.** And how old is Andrew?

10:22:49 6 **A.** 36.

10:22:50 7 **Q.** Does William have a middle initial?

10:22:53 8 **A.** Yes.

10:22:54 9 **Q.** And what's the middle initial?

10:22:55 10 **A.** G for Gregory.

10:22:57 11 **Q.** William G. Wagner?

10:23:00 12 **A.** Yes.

10:23:00 13 **Q.** Okay. And does Andrew have a middle

10:23:05 14 initial?

10:23:05 15 **A.** Yes. R.

10:23:08 16 **Q.** And neither one of them has gone by the

10:23:14 17 name William J. Wagner?

10:23:15 18 **A.** They have not.

10:23:16 19 **Q.** How long have you lived at your present

10:23:23 20 address?

10:23:23 21 **A.** Since September of 1984.

10:23:26 22 **Q.** And, again, you said that was

10:23:32 23 5419 Roberts Road?

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10:23:33 1 **A.** Yes.

10:23:33 2 **Q.** In Hamburg?

10:23:34 3 **A.** Mm-hmm.

10:23:34 4 **Q.** Have you lived there continuously since
10:23:41 5 September 1984?

10:23:41 6 **A.** Yes.

10:23:41 7 **Q.** Does anyone else currently live there
10:23:44 8 with you?

10:23:44 9 **A.** My son Andrew.

10:23:46 10 **Q.** Has he lived there continuously since
10:23:49 11 he was born?

10:23:49 12 **A.** No.

10:23:51 13 **Q.** I guess -- let me strike that.

10:23:53 14 Has he lived there continuously since 1984,
10:23:54 15 I should say?

10:23:55 16 **A.** No. He's in and out, let's say.

10:23:59 17 **Q.** Does anyone else currently live with
10:24:09 18 you at that address?

10:24:09 19 **A.** No.

10:24:10 20 **Q.** From 1984 to 2009, did your former wife
10:24:17 21 Julia live at that address as well?

10:24:18 22 **A.** Yes.

10:24:18 23 **Q.** Okay. Did -- during what period of

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10:24:25 1 time did your son Andrew live at that address?

10:24:27 2 **A.** Well, certainly for the first 20 some
10:24:33 3 years of his life. Then he moved in with his
10:24:36 4 girlfriend for several years. Then he moved back
10:24:38 5 home. So I -- the dates I would be very, very, you
10:24:43 6 know --

10:24:43 7 **Q.** Sure.

10:24:43 8 **A.** I don't know if I can come up with the
10:24:47 9 exact dates, but that's kind of the timeline.

10:24:48 10 **Q.** Okay. What about your son William?

10:24:51 11 **A.** William hasn't lived there since
10:24:56 12 about -- since he was like 21. Maybe 20, even. He
10:25:01 13 joined the Air Force, and after that, he lived in
10:25:06 14 the Virginia Beach area.

10:25:09 15 **Q.** Okay. So -- and is he still in that
10:25:13 16 area?

10:25:13 17 **A.** No. He's -- he has a government job.
10:25:15 18 He moves around the country, so he's out West at
10:25:19 19 this point.

10:25:19 20 **Q.** Okay. Has anyone else lived at
10:25:27 21 5419 Roberts Road since you moved into that address
10:25:29 22 in 1984?

10:25:31 23 **A.** No.

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10:25:32 1 Q. How -- do you own that -- that -- the
10:25:39 2 property at that address?

10:25:40 3 A. Yes.

10:25:40 4 Q. And how did you acquire it in 1984?

10:25:44 5 A. You got to explain that question.

10:25:47 6 Q. Did you purchase it?

10:25:47 7 A. Yes.

10:25:47 8 Q. Do you know from whom you purchased it?

10:25:50 9 A. His name was Arthur Chrosniak.

10:25:57 10 Q. Okay.

10:25:57 11 A. And -- and if you want a -- it's like
10:26:00 12 C-H-R-O-S-N-I-A-K is the best spelling I can come
10:26:04 13 up with.

10:26:05 14 Q. That'll do.

10:26:06 15 Do you know anyone else who's lived at that
10:26:08 16 address in the past other than your family members
10:26:10 17 and Mr. Chrosniak?

10:26:12 18 A. He bought the house from a woman named
10:26:16 19 Julie.

10:26:17 20 Q. Okay.

10:26:17 21 A. I can't remember her first name.

10:26:21 22 Q. Anyone else you know who's lived there
10:26:23 23 in the past?

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10:26:23 1 **A.** No. I think she built it, and then he
10:26:26 2 bought it, and then I bought it.

10:26:27 3 **Q.** Okay. Did you graduate from high
10:26:31 4 school?

10:26:32 5 **A.** Yes.

10:26:32 6 **Q.** Where did you attend high school?

10:26:34 7 **A.** Bishop Timon.

10:26:36 8 **Q.** And what year did you graduate?

10:26:37 9 **A.** 1968.

10:26:38 10 **Q.** Did you pursue any education after
10:26:42 11 that?

10:26:43 12 **A.** Yes.

10:26:43 13 **Q.** What -- what did you next pursue?

10:26:45 14 **A.** I went to ECC for two years.

10:26:49 15 **Q.** Okay. And what sort of program were
10:26:52 16 you in there?

10:26:53 17 **A.** Chemical technology.

10:26:56 18 **Q.** Did you graduate from ECM -- or ECC?

10:26:59 19 **A.** Yes.

10:26:59 20 **Q.** Excuse me.

10:27:00 21 **A.** Yes, I did.

10:27:00 22 **Q.** What year was that?

10:27:01 23 **A.** I actually graduated in '71. I flunked

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10:27:07 1 my calculus course, and I had to go back and take
10:27:09 2 it over.

10:27:10 3 Q. We don't hold it against you.

10:27:16 4 Did you pursue any further education after
10:27:18 5 that?

10:27:18 6 A. Yes.

10:27:18 7 Q. What next?

10:27:20 8 A. I then went to Houghton College at
10:27:29 9 nights while I was working and got a bachelor of
10:27:32 10 science degree.

10:27:34 11 Q. A bachelor's of science in what?

10:27:38 12 A. Business.

10:27:39 13 Q. And what year did you attend that
10:27:44 14 college?

10:27:44 15 A. That would have been around 1998 to
10:27:53 16 2000, would be my best guess.

10:27:56 17 Q. Okay. Have you had any further
10:28:05 18 education since then?

10:28:06 19 A. Yes.

10:28:06 20 Q. What else?

10:28:07 21 A. I then went to Daemen College.

10:28:11 22 Q. Okay. And what years were you at
10:28:12 23 Daemen?

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10:28:12 1 **A.** I was at Daemen approximately 2001 to
10:28:17 2 2002.

10:28:20 3 **Q.** What sort of program were you in at
10:28:23 4 Daemen?

10:28:24 5 **A.** Global business, global economics.

10:28:31 6 **Q.** Did you graduate from Daemen?

10:28:33 7 **A.** I -- it really wasn't a graduation. It
10:28:41 8 was a -- that's a good question. I completed all
10:28:52 9 the requirements. I never wrote my thesis.

10:28:53 10 **Q.** Okay.

10:28:53 11 **A.** You can call it whatever you like.

10:28:56 12 **Q.** Okay. And have you had any further
10:29:00 13 education since then?

10:29:01 14 **A.** No.

10:29:02 15 **Q.** Okay. Are you currently employed?

10:29:07 16 **A.** No. I'm retired.

10:29:08 17 **Q.** When did you retire?

10:29:11 18 **A.** I took an early requirement at the age
10:29:14 19 of 55.

10:29:17 20 **Q.** And what year was that?

10:29:18 21 **A.** Let's see. That would have been 2005.

10:29:24 22 **Q.** Where were you employed at the time?

10:29:31 23 **A.** Well, at the time I was employed at

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10:29:35 1 Buffalo Color Corporation.

10:29:37 2 Q. What was your role there?

10:29:43 3 A. I was a supervisor of technology.

10:29:46 4 Q. And what did that entail?

10:29:48 5 A. Running a small technology lab.

10:29:53 6 Dealing with customers.

10:29:56 7 Q. How long did you hold that position?

10:29:58 8 A. About two years.

10:30:00 9 Q. Were you -- you said is it Buffalo

10:30:07 10 Color Corporation? Sorry. Were you at Buffalo

10:30:09 11 Color Corporation before that, or was it just those

10:30:12 12 two years?

10:30:13 13 A. Well, I was with them several years

10:30:15 14 before that, but I have worked for other companies.

10:30:19 15 Q. Okay. Okay. What was your previous

10:30:21 16 employer before Buffalo Color Corporation?

10:30:23 17 A. Well, this is going to be interesting,

10:30:26 18 because when I worked there, it was Allied

10:30:28 19 Chemical.

10:30:28 20 Q. Okay.

10:30:29 21 A. Then it became Allied Signal. Now it's

10:30:32 22 called Honeywell.

10:30:32 23 Q. Okay.

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10:30:34 1 **A.** And what it's going to be tomorrow,
10:30:36 2 nobody knows.

10:30:38 3 **Q.** Now, what -- during what time period
10:30:41 4 were you employed at Allied Chemical or Signal,
10:30:48 5 Honeywell?

10:30:48 6 **A.** Well, I started there in 1970.

10:30:50 7 **Q.** Okay.

10:30:51 8 **A.** I left there in '81. I went back to
10:30:58 9 Buffalo Color Corporation. And then I left Buffalo
10:31:07 10 Color and went back to Allied again about '85. I
10:31:14 11 worked there till 1992. Then I went back to
10:31:17 12 Buffalo Color again. Very strange work history.

10:31:24 13 **Q.** Did you stay at Buffalo Color, then,
10:31:27 14 until --

10:31:27 15 **A.** Yes.

10:31:27 16 **Q.** -- your retirement? Okay.

10:31:29 17 Have -- have you been -- what was your
10:31:29 18 position at Allied Chemical?

10:31:31 19 **A.** I was a research chemist.

10:31:33 20 **Q.** Okay. And did you hold that position
10:31:36 21 at Buffalo Color until you -- until you became a
10:31:41 22 supervisor?

10:31:43 23 **A.** Not research. We didn't -- they didn't

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10:31:46 1 really do research. It was more of a technical
10:31:50 2 service is what it was called.

10:31:52 3 Q. Okay.

10:31:52 4 A. Technical service representative.

10:31:53 5 Q. Okay. Have you been employed anywhere
10:31:57 6 else since 1970?

10:32:00 7 A. No.

10:32:00 8 Q. Okay. Have you ever been self-employed?

10:32:05 9 A. No.

10:32:05 10 Q. Have you ever been in the military?

10:32:11 11 A. No.

10:32:11 12 Q. Have you ever been convicted of a
10:32:16 13 criminal offense, either a felony or a misdemeanor?

10:32:18 14 A. No.

10:32:18 15 Q. Have you ever been arrested before?

10:32:22 16 A. Not to my knowledge, no.

10:32:24 17 Q. Okay. Have you ever filed for
10:32:29 18 bankruptcy?

10:32:29 19 A. Certainly not.

10:32:48 20 MR. WOODARD: Let's mark this as Exhibit A.

10:32:48 21 The following was marked for Identification:

10:33:29 22 EXH. A Complaint and demand for jury trial

10:33:29 23 THE WITNESS: Wait a minute. Can I go back?

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10:33:32 1 **BY MR. WOODARD:**

10:33:32 2 **Q.** Of course.

10:33:32 3 **A.** There was another place I worked. In
10:33:35 4 1971, I worked at Pierce & Stevens Chemical
10:33:39 5 Corporation for one year.

10:33:40 6 **Q.** Okay. And -- and what was your
10:33:44 7 position there?

10:33:44 8 **A.** At that time I was a laboratory
10:33:48 9 assistant --

10:33:49 10 **Q.** Okay.

10:33:49 11 **A.** -- or a technician or something like
10:33:50 12 that.

10:34:01 13 **Q.** Anywhere else you were working since --

10:34:04 14 **A.** Can't recall anywhere else.

10:34:06 15 **Q.** -- 1970? Okay.

10:34:10 16 Now, Mr. Wagner, I'm going to show you
10:34:12 17 what's been marked as Exhibit A. Okay? If you'd
10:34:14 18 just take a little bit to look over it.

10:35:04 19 **A.** Okay.

10:35:04 20 **Q.** Do you recognize -- you can hold on to
10:35:07 21 it.

10:35:07 22 Do you recognize what that is?

10:35:10 23 **A.** Yes. That's my complaint.

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10:35:11 1 Q. Okay. And you've seen that before?

10:35:14 2 A. Yes.

10:35:14 3 Q. Okay. I'll ask you to take a look at
10:35:20 4 paragraph 9 on the second page. Okay?

10:35:23 5 A. Mm-hmm.

10:35:25 6 Q. And I'll -- I'll read it aloud, and if
10:35:28 7 you could just read it to yourself as I'm reading
10:35:30 8 it out loud.

10:35:31 9 Paragraph 9 says that upon information
10:35:35 10 belief, there are two individuals named William
10:35:38 11 J. Wagner, one of whom is the Plaintiff in this
10:35:40 12 action. The other William J. Wagner is a junior
10:35:44 13 and is not the Plaintiff in this action.

10:35:45 14 And then continuing on to the following
10:35:49 15 paragraph, 10, that upon information and belief,
10:35:52 16 William J. Wagner, Jr., not Plaintiff William
10:35:56 17 J. Wagner, incurred a debt to M.J. Peterson Corp.
10:35:59 18 This debt will be referred -- referred to as the
10:36:01 19 subject debt.

10:36:03 20 Did I read that correctly?

10:36:04 21 A. Mm-hmm. Yes.

10:36:06 22 Q. So as I understand it, it's your belief
10:36:11 23 that someone named William J. Wagner, Jr., incurred

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10:36:15 1 a debt to M.J. Peterson; is that correct?

10:36:18 2 **A.** That's correct.

10:36:18 3 **Q.** But you're not that William J. Wagner?

10:36:21 4 **A.** I'm not that William J. Wagner.

10:36:23 5 **Q.** So just for ease of reference, I'll

10:36:25 6 refer to that debt that's described in paragraphs 9

10:36:29 7 and 10 as the debt or the debt at issue. Does that

10:36:31 8 make sense?

10:36:32 9 **A.** Yes.

10:36:32 10 **Q.** And I'll refer to that individual, the
10:36:35 11 other William J. Wagner, as William J. Wagner, Jr.,
10:36:39 12 or the debtor. Okay?

10:36:41 13 **A.** Yes.

10:36:41 14 **Q.** Okay. Now, have you ever conducted
10:36:45 15 business with M.J. Peterson before?

10:36:47 16 **A.** No.

10:36:48 17 **Q.** So I assume you also have not incurred
10:36:52 18 a debt to M.J. Peterson before?

10:36:53 19 **A.** I have not.

10:36:56 20 **Q.** Are you related to anyone else named
10:37:00 21 William J. Wagner?

10:37:01 22 **A.** No.

10:37:01 23 **Q.** So even as cousins, removed, as far as

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10:37:05 1 you know, you're not related to this other
10:37:07 2 individual, William J. Wagner, Jr.?

10:37:08 3 **A.** I'm not related to the other
10:37:11 4 individual.

10:37:11 5 **Q.** Okay. Have you ever communicated with
10:37:12 6 this other individual before, either in writing or
10:37:15 7 orally?

10:37:15 8 **A.** No.

10:37:16 9 **Q.** Do you know whether he's ever lived at
10:37:21 10 5419 Roberts Road?

10:37:23 11 **A.** I can assure you, he has not.

10:37:26 12 **Q.** Okay. Now, in February 2015, did
10:37:38 13 Chiari & Ilecki send a letter to 5419 Roberts Road?

10:37:41 14 **A.** Yes, they did.

10:37:58 15 **MR. WOODARD:** Okay. Let's mark this as B.

16 **The following was marked for Identification:**

17 **EXH. B Letter dated February 9, 2015, from**

18 **Melissa Overbeck to William**

19 **J. Wagner, Jr., with notice**

20 **to judgment debtor or obligor**

21 **BY MR. WOODARD:**

10:39:02 22 **Q.** Mr. Wagner, I'm handing you what's been
10:39:04 23 marked as Exhibit B.

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10:39:05 1 **A.** Mm-hmm.

10:39:05 2 **Q.** If you would take a look at that,
10:39:08 3 please.

10:39:16 4 Do you recognize what Exhibit B is?

10:39:19 5 **A.** That's the letter I received.

10:39:20 6 **Q.** Okay. Before this letter, had you ever
10:39:26 7 had any communication with Chiari & Ilecki?

10:39:29 8 **A.** Not to my knowledge.

10:39:31 9 **Q.** Okay. Had -- so Chiari & Ilecki had --
10:39:35 10 had never sent correspondence to your address
10:39:38 11 before, to the best of your knowledge?

10:39:38 12 **A.** To the best of my knowledge, no.

10:39:40 13 **Q.** Now, taking a look at Exhibit B, it's
10:39:43 14 addressed to the debtor William J. Wagner, Jr.,
10:39:47 15 correct?

10:39:47 16 **A.** Yes.

10:39:47 17 **Q.** And, again, that's not you.

10:39:51 18 **A.** That's not me.

10:39:52 19 **Q.** And it says it's regarding claim of
10:39:55 20 M.J. Peterson, LLC. Correct?

10:39:58 21 **A.** Correct.

10:39:58 22 **Q.** Taking a look at the first paragraph,
10:40:02 23 I'll -- I'll read it out loud, and please, again,

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10:40:04 1 read it along to yourself with me.

10:40:06 2 Please find the enclosed notice pursuant to
10:40:11 3 CPLR 5222. This communication is from a debt
10:40:14 4 collector. The debt collector is attempting to
10:40:17 5 collect a debt, and any information obtained will
10:40:19 6 be used for that purpose.

10:40:23 7 And then it says in the following paragraph,
10:40:25 8 the current judgment balance as of February 9,
10:40:28 9 2005 -- or excuse me -- 2015, is 2,570.17.

10:40:34 10 Did I read that correctly?

10:40:35 11 **A.** Yes.

10:40:38 12 **Q.** Now, had -- had letters addressed --
10:40:48 13 letters like this one addressed to the debtor,
10:40:51 14 William J. Wagner, Jr., ever been mailed to your
10:40:53 15 house before?

10:40:54 16 **A.** No.

10:40:54 17 **Q.** So -- and I'm not -- I'm not saying
10:40:57 18 just from Chiari & Ilecki. Had you ever received
10:41:00 19 any correspondence addressed to William J. Wagner,
10:41:03 20 Jr., before?

10:41:04 21 **A.** Nothing mailed to my house, no.

10:41:06 22 **Q.** Okay. Aside from debt collectors, had
10:41:14 23 you received any letters addressed to William

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10:41:17 1 J. Wagner, Jr., at your house before?

10:41:22 2 **A.** No.

10:41:22 3 **Q.** Had -- had any calls ever been made to
10:41:29 4 your house in which someone was asking for William
10:41:34 5 J. Wagner, Jr., before?

10:41:41 6 **A.** You mean besides Chiari & Ilecki or --

10:41:44 7 **Q.** Before you received this letter.

10:41:45 8 **A.** No.

10:41:45 9 **Q.** Okay. Now, when you saw this -- this
10:42:00 10 letter which we marked as Exhibit B, did you open
10:42:02 11 the letter yourself when the -- the envelope
10:42:05 12 arrived at your house?

10:42:06 13 **A.** Yes.

10:42:06 14 **Q.** And when you read it, did you recognize
10:42:10 15 that Chiari & Ilecki was attempting to contact
10:42:14 16 someone other than you? William J. Wagner, Jr.?

10:42:17 17 **A.** Yes.

10:42:17 18 **Q.** So you realized that they were not
10:42:22 19 trying to collect a debt from you, as opposed to
10:42:25 20 William J. Wagner, Jr.?

10:42:25 21 **A.** At that time, yes.

10:42:26 22 **Q.** Okay. How -- how did you respond once
10:42:29 23 you saw this letter?

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10:42:30 1 **A.** I called the --

10:42:32 2 **Q.** Okay.

10:42:33 3 **A.** -- law firm and tried to discuss it
10:42:35 4 with them.

10:42:35 5 **Q.** Okay. Do you recall when you made that
10:42:40 6 call?

10:42:41 7 **A.** On February 12th at 10:32 a.m., I
10:42:47 8 believe.

10:42:49 9 **MR. WOODARD:** Okay. Let's mark this as C.

10:42:49 10 **The following was marked for Identification:**

10:42:53 11 **EXH. C Events sheet, three pages**

10:43:32 12 **BY MR. WOODARD:**

10:43:32 13 **Q.** Thank you.

10:43:34 14 Now, do you recall who you spoke with at
10:43:38 15 Chiari & Ilecki's office in that -- that
10:43:39 16 February 12th call?

10:43:40 17 **A.** Karen.

10:43:41 18 **Q.** Okay. I'm going to hand you what's
10:43:44 19 marked as Exhibit C. If you don't mind taking a
10:43:48 20 look at that.

10:43:49 21 **A.** Mm-hmm.

10:44:04 22 **Q.** Have you ever seen this document
10:44:06 23 before?

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10:44:07 1 **A.** Yes.

10:44:08 2 **Q.** And when did you see this document?

10:44:09 3 **A.** When I visited Seth's office.

10:44:16 4 **Q.** Okay. Now, I'll represent to you that

10:44:20 5 this is -- it's a document, an event log or event

10:44:25 6 sheet that's been maintained and produced by Chiari

10:44:30 7 & Ilecki in this case, okay?

10:44:31 8 **A.** Yes.

10:44:32 9 **Q.** So if you'll take a look to page 2 of

10:44:36 10 this document, Exhibit C. If you look about --

10:44:41 11 it's a little more than halfway down, there's an

10:44:43 12 entry that says Karen.

10:44:45 13 **A.** Yes.

10:44:45 14 **Q.** Do you see that?

10:44:47 15 It says Karen, Wagner versus William J.

10:44:49 16 Wagner, Jr., has a number, and then M.J. Peterson,

10:44:51 17 LLC. 2/12/16 telephone call. Do you see that?

10:44:57 18 **A.** Yes, I do.

10:44:57 19 **Q.** Okay. And then if -- if you look over

10:44:59 20 at the description which is next to it, I'll read

10:45:02 21 it out loud. If you could read it to yourself. It

10:45:05 22 says a William Wagner calls office. He lives at

10:45:11 23 the Roberts Road address. Claims not him. He's

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10:45:13 1 not a junior. Claims this has been -- it says REC;
10:45:22 2 I think it's receiving or something like that --
10:45:24 3 stuff for last six to seven years for D. I'm
10:45:27 4 guessing that's debtor. Gave me last couple number
10:45:31 5 of SS hashtag parenthesis 16. Told him would note
10:45:40 6 file and email attorney. Emailed MO.

10:45:44 7 Did I -- did I read that correctly?

10:45:45 8 **A.** Yes.

10:45:46 9 **Q.** Now, is that consistent with your
10:45:50 10 recollection of your February 12th call with
10:45:55 11 Chiari & Ilecki?

10:45:56 12 **A.** Yes, all -- all except the Social
10:45:59 13 Security number is wrong. It's -- I don't know
10:46:01 14 where she got the 16 from.

10:46:02 15 **Q.** So 16 are not the last two digits of
10:46:05 16 your Social Security?

10:46:06 17 **A.** No. Yes, they're not.

10:46:08 18 **Q.** Do you know whether they're the last
10:46:11 19 two digits of the debtor's?

10:46:13 20 **A.** I do not know that.

10:46:14 21 **Q.** Okay. And do you agree that during
10:46:23 22 this call, you gave Chiari & Ilecki -- you orally
10:46:28 23 gave them part of a Social Security number but not

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10:46:31 1 the complete Social Security number?

10:46:32 2 **A.** That's true.

10:46:33 3 **Q.** Okay. And at this time, you did not
10:46:40 4 send Chiari & Ilecki your Social Security card or
10:46:43 5 driver's license, correct?

10:46:44 6 **A.** That's correct.

10:46:46 7 **Q.** Do you recall whether Chiari & Ilecki
10:46:50 8 asked you during this call if you'd be willing to
10:46:52 9 send your Social Security card or driver's license?

10:46:55 10 **A.** I don't believe it came up in this
10:46:57 11 call.

10:46:57 12 **Q.** Okay. Now, it -- it says in this entry
10:47:07 13 which we just read, claims this has been, again,
10:47:12 14 rec -- I think that's receiving or received --
10:47:15 15 stuff for last six to seven years for D, which,
10:47:19 16 again, I'm guessing is debtor.

10:47:20 17 Does that -- does that refresh your
10:47:24 18 recollection? Had -- had you ever received
10:47:26 19 anything relating to this William J. Wagner, Jr.,
10:47:29 20 before?

10:47:32 21 **A.** Yes.

10:47:32 22 **Q.** Oh, you had received --

10:47:34 23 **A.** Oh, I've been contacted by other

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10:47:36 1 people, yes.

10:47:38 2 Q. Okay.

10:47:38 3 A. I never received any letters --

10:47:39 4 Q. Okay.

10:47:40 5 A. -- addressed to William J. Wagner,

10:47:41 6 Jr. --

10:47:41 7 Q. Okay.

10:47:41 8 A. -- which was your question.

10:47:42 9 Q. Right. Did -- did anyone ever make --

10:47:46 10 make calls to your home for William J. Wagner, Jr.?

10:47:48 11 A. Yes.

10:47:49 12 Q. Okay. And who -- or let's strike that.

10:47:55 13 How long had that been going on before you

10:47:57 14 received the letter -- or excuse me, before the

10:48:00 15 February 2015 letter was sent to your -- your

10:48:04 16 house?

10:48:04 17 A. It was quite a while ago.

10:48:09 18 Q. Six or seven years? Does that sound

10:48:12 19 like an approximate --

10:48:15 20 A. I think so.

10:48:16 21 Q. -- amount?

10:48:17 22 A. Yes.

10:48:17 23 Q. Okay. And of those people who had

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10:48:22 1 contacted you before, had -- Chiari & Ilecki was
10:48:25 2 not one that had contacted you before?

10:48:27 3 **A.** Not that I know.

10:48:29 4 **Q.** Okay. Do you recall who contacted you
10:48:32 5 before about the debtor?

10:48:34 6 **A.** Wow.

10:48:37 7 **Q.** Take -- take your time. Just to the
10:48:40 8 best you can recall.

10:48:49 9 **A.** One of the law firms was a Sharon &
10:48:53 10 Litchke or something. And the other one, I don't
10:48:57 11 remember.

10:48:59 12 **Q.** So multiple people or organizations
10:49:07 13 contacted you about the debtor in the past?

10:49:11 14 **A.** Well, yes.

10:49:13 15 **Q.** Were they ever -- were they always law
10:49:17 16 firms?

10:49:18 17 **A.** That, I can't tell you.

10:49:20 18 **Q.** But it sounds like multiple
10:49:22 19 organizations contacted you before about -- about
10:49:25 20 the debt?

10:49:25 21 **A.** Well, I wouldn't say multiple. Maybe
10:49:29 22 two or three.

10:49:29 23 **Q.** Two or three. Okay.

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10:49:29 1 **A.** Maybe I'm forgetting one. Who knows?

10:49:32 2 **Q.** Okay. But it had been going on for I
10:49:34 3 guess a number of years before February of 2015?

10:49:37 4 **A.** Yes.

10:49:38 5 **Q.** Would -- how had you been contacted
10:49:41 6 before about the debtor?

10:49:49 7 **A.** I believe it was by telephone.

10:49:52 8 **Q.** Was it always at your home address?

10:49:54 9 **A.** Yes.

10:49:54 10 **Q.** Had you ever been contacted in any
10:49:58 11 other way regarding the debtor before February
10:50:02 12 2015?

10:50:02 13 **A.** They might have sent a letter. It's
10:50:05 14 been so long, I -- I can't recall.

10:50:06 15 **Q.** Have you been contacted either by
10:50:20 16 phone, by letter, in person, about the debtor since
10:50:23 17 February of 2015, aside from any interactions with
10:50:27 18 Chiari & Ilecki?

10:50:27 19 **A.** Could you say that again?

10:50:28 20 **Q.** Of course. Yeah. Since February 2015,
10:50:32 21 have you been contacted by phone or by letter or in
10:50:34 22 person about the debtor, other than -- and with,
10:50:39 23 you know, the events that we're talking about here

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10:50:41 1 with Chiari & Ilecki?

10:50:42 2 **A.** Not that I know of, no.

10:50:44 3 **Q.** Okay. Can you estimate about how many
10:50:51 4 times total you had contact with someone looking
10:50:55 5 for the debtor, William J. Wagner, Jr., before
10:50:58 6 February 2015?

10:50:59 7 **A.** Two or three, I would say.

10:51:00 8 **Q.** Okay. And did -- you said that you
10:51:05 9 were contacted by phone, maybe by letter. Were you
10:51:09 10 ever contacted in -- in person about --

10:51:12 11 **A.** No.

10:51:13 12 **Q.** -- William J. Wagner, Jr.?

10:51:14 13 **A.** Never.

10:51:14 14 **Q.** Did you ever have anyone, other than
10:51:17 15 working in the debt collection industry, someone
10:51:20 16 contact you saying they were looking for William
10:51:22 17 J. Wagner, Jr.?

10:51:23 18 **A.** Not that I can remember.

10:51:25 19 **Q.** Okay. You don't recall if you ever
10:51:28 20 received advertisements or -- or anything sent
10:51:34 21 to -- solicitations sent to William J. Wagner, Jr.,
10:51:37 22 at your address?

10:51:38 23 **A.** I would say no.

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10:51:39 1 Q. Okay. In these previous instances in
10:51:44 2 which you've been contacted regarding William
10:51:46 3 J. Wagner, Jr., how did the -- the communication
10:51:51 4 ultimately resolve itself?

10:51:56 5 A. I would call the people back and tell
10:52:00 6 them it wasn't me.

10:52:01 7 Q. Okay.

10:52:03 8 A. And that seemed to satisfy them.

10:52:05 9 Q. Okay. Other than -- other -- other
10:52:28 10 than from debt collectors, would you ever receive
10:52:30 11 calls from anyone looking for William J. Wagner,
10:52:33 12 Jr., in the past?

10:52:34 13 A. No.

10:52:36 14 Q. Okay. Now, taking a look back at
10:52:38 15 Exhibit C, the event log, other than the
10:52:44 16 information which is entered in the entry that we
10:52:47 17 were just looking at, the February 12th entry, do
10:52:51 18 you recall anything else that was said during your
10:52:54 19 conversation with Karen from Chiari & Ilecki?

10:52:59 20 A. On February 12th?

10:53:01 21 Q. Correct.

10:53:02 22 A. I do not.

10:53:03 23 Q. Okay. Did you record the conversation?

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10:53:07 1 **A.** No, I did not.

10:53:08 2 **Q.** Was anyone else on the phone with you?

10:53:11 3 **A.** No.

10:53:11 4 **Q.** Was anyone physically in the same room
10:53:14 5 or -- or near you when you were making the call?

10:53:16 6 **A.** I don't believe so.

10:53:17 7 **Q.** Okay. So what happened next in
10:53:32 8 connection with any communications with Chiari &
10:53:34 9 Ilecki or the -- about the debtor?

10:53:40 10 **A.** Well, they kept contacting me in
10:53:42 11 various ways.

10:53:43 12 **Q.** Okay. Well, what -- what was the --
10:53:45 13 the next contact?

10:53:46 14 **A.** I believe they tried to send a letter
10:53:48 15 to my house.

10:53:51 16 **Q.** Do you recall when that was?

10:53:56 17 **A.** It was a few days after the phone call
10:54:00 18 with Karen, probably the 15th.

10:54:06 19 **Q.** And you said that -- that that was a
10:54:16 20 letter that they -- that someone attempted to --

10:54:18 21 **A.** Attempted to.

10:54:19 22 **Q.** -- to deliver at your address?

10:54:21 23 **A.** That's right.

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10:54:21 1 Q. Okay. And was it, in fact, delivered?

10:54:24 2 A. No.

10:54:24 3 Q. And -- and why is that?

10:54:25 4 A. I wasn't home.

10:54:27 5 Q. Okay. Did you receive some sort of
10:54:31 6 notification, then?

10:54:32 7 A. Yes.

10:54:32 8 Q. Okay. And who was the notification
10:54:37 9 from?

10:54:38 10 A. United States Postal Service.

10:54:40 11 Q. Okay. And do you have a copy of that
10:54:44 12 notification with you today?

10:54:45 13 A. I do not.

10:54:46 14 Q. Have you given it to your attorney?

10:54:49 15 A. Yes.

10:54:50 16 MR. WOODARD: Okay. Can we go off a second?
10:54:53 17 (Discussion off the record.)

10:57:28 18 BY MR. WOODARD:

10:57:37 19 Q. We were just talking about a
10:57:39 20 notification that you received from the -- the post
10:57:41 21 office?

10:57:41 22 A. Mm-hmm.

10:57:41 23 Q. Is that correct?

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10:57:42 1 **A.** Yes.

10:57:42 2 **Q.** And you said that was -- you think that
10:57:44 3 was a few days after your February 12th phone call?

10:57:47 4 **A.** Yes.

10:57:47 5 **Q.** Do you recall what the -- that notice
10:57:51 6 said?

10:57:53 7 **A.** It was just a piece of paper with tried
10:57:57 8 to deliver a letter, and you weren't home.

10:57:59 9 **Q.** Okay. Okay. And -- and did the notice
10:58:03 10 say whom the correspondence was from?

10:58:06 11 **A.** It may have.

10:58:07 12 **Q.** Okay. Did it have to whom the
10:58:14 13 correspondence was directed?

10:58:15 14 **A.** Yes.

10:58:16 15 **Q.** Did it say William J. Wagner, Jr.?

10:58:17 16 **A.** Yes, it did.

10:58:18 17 **Q.** And so, again, you knew that that
10:58:21 18 wasn't you; that it was the debtor.

10:58:23 19 **A.** That's right.

10:58:26 20 **Q.** Okay. And you said you -- you don't
10:58:30 21 recall whether that notice itself said it was from
10:58:33 22 Chiari & Ilecki?

10:58:33 23 **A.** I believe it did not say that.

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10:58:38 1 Q. Okay. And -- and just to be clear for
10:58:47 2 the record, you've not produced that document to
10:58:50 3 our office as of today, correct?

10:58:55 4 A. Why would I produce the document to
10:58:59 5 your office?

10:59:01 6 Q. Just yes or no.

10:59:02 7 A. I believe I have not.

10:59:04 8 Q. Okay. Now, what was the next contact
10:59:17 9 that you had with anyone about the debtor?

10:59:20 10 A. Let me take a look at these notes.

10:59:31 11 Q. Sure. And -- and I'll clarify my
10:59:36 12 question. When I say "contact," I mean not -- not
10:59:38 13 just oral communications; also if you received
10:59:41 14 anything else in the mail or otherwise.

10:59:44 15 A. I made a second phone call on 3/19.
10:59:59 16 I -- that, I remember. And it may have been in
11:00:11 17 response to another letter that came.

11:00:12 18 Q. Okay. Tell me about -- about the other
11:00:18 19 letter that the 3/19 phone call may have --

11:00:21 20 A. The same as the first one. It was the
11:00:23 21 U.S. Postal Service. And I didn't accept it 'cause
11:00:29 22 it wasn't addressed to me.

11:00:37 23 Q. At that time -- and by the way, when

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11:00:39 1 was this? Do you recall? In relation to
11:00:44 2 March 19th?

11:00:44 3 **A.** I believe it was on March 19th. I
11:00:51 4 think it was March 19th.

11:00:52 5 **Q.** So on or around the date that you next
11:00:56 6 called Chiari & Ilecki?

11:00:56 7 **A.** That's right.

11:00:57 8 **Q.** Okay. In between that time period of
11:01:02 9 the first phone call, February 12th, and
11:01:06 10 March 19th, did you receive any other
11:01:09 11 correspondence or mailings that were addressed to
11:01:12 12 William J. Wagner, Jr., other than the two
11:01:14 13 instances you've now told us about?

11:01:15 14 **A.** Between what dates?

11:01:16 15 **Q.** Between the first phone call, which
11:01:20 16 was -- I believe you said was on February 12th,
11:01:22 17 2015, and the second phone call, which you just
11:01:25 18 said was on March 19th, 2015.

11:01:27 19 **A.** Just those two pieces of paper.

11:01:29 20 **Q.** Okay. So let's talk about the second
11:01:31 21 time. We talked about the first one. Let's talk
11:01:33 22 about the second one. Were you home that time?

11:01:36 23 **A.** I was home.

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11:01:36 1 Q. Okay. And what happened?

11:01:40 2 A. I refused to take the letter.

11:01:45 3 Q. So someone was -- was at the door?

11:01:48 4 They rang the doorbell and knocked on the door?

11:01:50 5 A. I don't remember that.

11:01:51 6 Q. Okay. You spoke with someone?

11:01:55 7 A. Yes.

11:01:56 8 Q. Well, was that someone from the post

11:01:58 9 office?

11:01:58 10 A. Yes.

11:01:58 11 Q. Okay. And do you recall what they said

11:02:00 12 to you --

11:02:02 13 A. No.

11:02:02 14 Q. -- or what you said to them?

11:02:03 15 A. No.

11:02:03 16 Q. Did they show you the letter that they

11:02:06 17 were attempting to deliver?

11:02:08 18 A. No.

11:02:10 19 Q. Did they tell you to whom the --

11:02:12 20 A. Wait a minute, now. I'm sorry. I may

11:02:15 21 be confused. No. I never had -- I never saw the

11:02:20 22 letter.

11:02:21 23 Q. Okay.

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11:02:23 1 **A.** So I think what happened was they left
11:02:25 2 the thing in my mailbox, and I found it when I went
11:02:28 3 out and got my mail.

11:02:31 4 **Q.** Okay.

11:02:31 5 **A.** But I don't -- I don't remember why
11:02:33 6 they would not have tried to deliver it if he
11:02:37 7 actually had a letter.

11:02:39 8 **Q.** Okay. And did you open this -- this
11:02:45 9 mailing? This letter that you received?

11:02:47 10 **A.** No. I never got it in my hands.

11:02:48 11 **Q.** Okay. But you said someone left it in
11:02:51 12 your mailbox?

11:02:51 13 **A.** No. A receipt.

11:02:54 14 **Q.** Okay.

11:02:54 15 **A.** The second receipt was identical to the
11:02:56 16 first receipt --

11:02:57 17 **Q.** Okay.

11:02:58 18 **A.** -- that tried to deliver this and no
11:03:03 19 one was home, or he didn't want to deliver it. I
11:03:06 20 don't know what happened with that.

11:03:08 21 **Q.** Okay.

11:03:08 22 **A.** I may not have been home. You're
11:03:09 23 asking me things from way back when, and, you know,

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11:03:13 1 I don't remember exactly.

11:03:14 2 Q. And that's -- that's totally fine.

11:03:15 3 Please, we'd ask you not to guess.

11:03:17 4 A. Yeah.

11:03:17 5 Q. If you can estimate, that's appropriate
11:03:19 6 to estimate, but yeah. Please don't guess. Just
11:03:23 7 let us know. Say I don't remember. That's fine.

11:03:24 8 A. Yeah. I never touched the letter.

11:03:26 9 Q. Okay. Now, were -- were both letters,
11:03:37 10 were they both sent by certified mail?

11:03:40 11 A. I believe they were.

11:03:40 12 Q. Okay. Do you know whether they were
11:03:42 13 two separate letters or if it was the same letter,
11:03:45 14 just the post office attempted to deliver the same
11:03:48 15 letter twice?

11:03:48 16 A. I do not know that.

11:03:50 17 Q. Okay. And do you know when the letter
11:03:55 18 or letters were sent by the sender?

11:03:59 19 A. No, I don't.

11:04:05 20 Q. So if Chiari & Ilecki has proof that
11:04:09 21 it -- it mailed only -- only one certified mailing
11:04:12 22 to you and that they mailed it at the same time as
11:04:14 23 the first letter that you actually did receive and

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11:04:17 1 opened in February, do you have any evidence that
11:04:20 2 would suggest that that is incorrect?

11:04:26 3 **A.** Now, just say that again, because --

11:04:28 4 **Q.** It was a big question.

11:04:29 5 **A.** That was a --

11:04:29 6 **Q.** I'll clean it up a little bit.

11:04:31 7 If Chiari & Ilecki has proof that it only
11:04:34 8 mailed one certified mailing to William J. Wagner,
11:04:40 9 Jr., at 5419 Roberts Road, and that if they have
11:04:45 10 proof that that was sent at the same time as
11:04:49 11 Exhibit B, which you did receive, do you have
11:04:53 12 anything that suggests that -- that they aren't
11:04:57 13 telling the truth or any reason to disbelieve?

11:05:00 14 **A.** Well, I -- I think somewhere on the
11:05:02 15 receipt, they did have a date as to when they tried
11:05:06 16 to contact me with the letter.

11:05:07 17 **Q.** And that's -- when you say "they,"
11:05:09 18 you're talking about the postal service?

11:05:11 19 **A.** Yes. Yes.

11:05:11 20 **Q.** Do you have any reason to dispute when
11:05:13 21 Chiari & Ilecki placed this certified mailing in
11:05:16 22 the mail?

11:05:16 23 **A.** I don't know when they mailed it, no.

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11:05:19 1 Q. Okay.

11:05:19 2 A. I know when they tried to drop it off
11:05:23 3 at my house 'cause they left the receipt.

11:05:25 4 Q. But that was when the postal service
11:05:28 5 tried to drop it off --

11:05:30 6 A. Yes.

11:05:30 7 Q. -- not Chiari & Ilecki.

11:05:31 8 A. Exactly.

11:05:32 9 Q. Okay. Do you think that you have both
11:05:35 10 receipts?

11:05:36 11 A. Do I have both receipts?

11:05:37 12 Q. Yes.

11:05:37 13 A. Yes, I do.

11:05:38 14 Q. Okay. But you have not produced either
11:05:39 15 one of those in this case so far.

11:05:41 16 A. I have not.

11:05:42 17 Q. Okay. Did you make any notes about the
11:06:01 18 letters or the notifications that you received,
11:06:03 19 other than the notifications themselves?

11:06:07 20 A. Say that again, because I didn't get
11:06:09 21 that one.

11:06:10 22 Q. Yeah. Did you jot down any notes for
11:06:13 23 your records?

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11:06:14 1 **A.** I usually jot down notes when I'm
11:06:17 2 talking to somebody on the phone, so there are some
11:06:20 3 notes.

11:06:20 4 **Q.** Okay. But you wouldn't have jotted --
11:06:23 5 jotted down notes about the notifications that you
11:06:26 6 received from the postal service from the letters
11:06:27 7 that you rejected?

11:06:29 8 **A.** I called and spoke to Kristian --

11:06:32 9 **Q.** Okay.

11:06:33 10 **A.** -- and that was about the letters --

11:06:34 11 **Q.** Okay.

11:06:34 12 **A.** -- that I was receiving.

11:06:35 13 **Q.** Okay.

11:06:36 14 **A.** Wanted to know why they kept sending
11:06:39 15 things to my house.

11:06:41 16 **Q.** Sure. I just want to make sure that
11:06:43 17 there aren't any notes that we don't have is what
11:06:45 18 I'm trying to get at.

11:06:45 19 **A.** Oh, no. You've got everything that
11:06:47 20 I've got.

11:06:47 21 **Q.** Okay. Now, how do you know that the
11:06:50 22 certified mailing or mailings was from Chiari &
11:06:53 23 Ilecki?

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11:06:54 1 **A.** How did I know that?

11:06:55 2 **Q.** Yeah.

11:06:56 3 **A.** One of them had Lafayette Square
11:06:59 4 written on the top of it.

11:06:59 5 **Q.** So I'm talking about the -- the two
11:07:01 6 letters or the one letter that you never actually
11:07:05 7 received. Just the -- the ones that the post
11:07:08 8 office tried to deliver and you didn't receive.
11:07:10 9 How do you know that those were from Chiari &
11:07:12 10 Ilecki?

11:07:15 11 **A.** Well, like I say, it had an address on
11:07:21 12 it from Lafayette Square. It was addressed to
11:07:24 13 William J. Wagner, Jr.

11:07:26 14 **Q.** Those were the two notices --

11:07:26 15 **A.** We were in the process --

11:07:27 16 **Q.** I'm sorry.

11:07:28 17 **A.** -- of trying to collect a debt from me
11:07:31 18 that I didn't owe. That's how I knew.

11:07:33 19 **Q.** So the two notices that you received
11:07:38 20 from the post office, did they say the address or
11:07:42 21 Chiari & Ilecki? Excuse me. Did they say either
11:07:45 22 Chiari & Ilecki or the Lafayette Square address on
11:07:47 23 those --

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11:07:48 1 **A.** I don't believe they did.

11:07:50 2 **Q.** So you -- you don't know, other than by
11:07:52 3 guessing based on the circumstances, that the two
11:08:04 4 notifications you received from the post office
11:08:07 5 related to anything from Chiari & Ilecki?

11:08:09 6 **A.** Only the address in the top of the
11:08:11 7 corner, which was the address of their law firm in
11:08:15 8 Lafayette Square.

11:08:15 9 **Q.** And that was -- that address was on the
11:08:19 10 two notifications from the post office?

11:08:20 11 **A.** On one notification.

11:08:22 12 **Q.** On one of them.

11:08:23 13 Was that on the -- do you recall if it was
11:08:24 14 on the February one or the March one?

11:08:26 15 **A.** It was on the February one, I believe.

11:08:27 16 **Q.** Okay. Thank you.

11:08:28 17 And then you -- you never saw what the post
11:08:35 18 office was attempting to deliver either in February
11:08:38 19 or March, correct?

11:08:39 20 **A.** No.

11:08:40 21 **Q.** But the notifications from the post
11:08:43 22 office said it was directed to William J. Wagner,
11:08:45 23 Jr.

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11:08:45 1 **A.** Yes.

11:08:45 2 **Q.** And so you realized that -- strike
11:08:48 3 that.

11:08:49 4 And so -- so I guess you're -- you're
11:09:09 5 assuming based, again, on the circumstances, that
11:09:12 6 the letter that you never opened was about the same
11:09:17 7 debt that the first letter was about.

11:09:18 8 **A.** Yes.

11:09:19 9 **Q.** Okay. Now, how did you respond to the
11:09:23 10 notification that you received from the post
11:09:25 11 office?

11:09:25 12 **A.** I called Kristian.

11:09:27 13 **Q.** Okay. And -- and you said that that
11:09:30 14 was on or about March 19th?

11:09:31 15 **A.** Yes.

11:09:32 16 **Q.** Okay. Let's take a look back at -- at
11:09:35 17 Exhibit C, the event log.

11:09:40 18 **A.** Okay.

11:09:40 19 **Q.** So we're still on page 2 here.

11:09:41 20 **A.** Yes.

11:09:42 21 **Q.** Just under the entry that we talked
11:09:45 22 about a little before the February entry.

11:09:47 23 So right underneath it, it says, Kristian,

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11:09:51 1 Wagner, William J., Jr., then a number.

11:09:56 2 M.J. Peterson, LLC.

11:09:57 3 **A.** Mm-hmm.

11:09:57 4 **Q.** And then 3/19/2015 telephone call. Is
11:10:02 5 that correct?

11:10:02 6 **A.** Yes.

11:10:02 7 **Q.** Okay. And right next to it, I'll --
11:10:05 8 I'll read the -- the entry that's next to it.

11:10:08 9 William Wagner CO -- I'm guessing that's
11:10:12 10 calls office. Says he is not debtor. Says his
11:10:19 11 DOB, date of birth, is in [REDACTED] 1950. Very upset
11:10:24 12 that he keeps getting letters from our office.
11:10:29 13 ADV -- I'm guessing that advised him can send a
11:10:33 14 copy of DL, driver's license, and SS number if he'd
11:10:38 15 like. He says for us to just let WI -- I'm
11:10:43 16 guessing that's William Ilecki know that he's not
11:10:47 17 debtor. Advised we did email attorney.

11:10:49 18 Did I read that correctly?

11:10:51 19 **A.** Yes, you did.

11:10:51 20 **Q.** Is that consistent with your
11:10:54 21 recollection of the March 19th telephone call that
11:10:58 22 you had with Chiari & Ilecki?

11:10:59 23 **A.** Yes.

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11:11:00 1 Q. Is there anything else that you recall
11:11:04 2 from that conversation?

11:11:11 3 A. I just had the idea that they said they
11:11:13 4 were going to take care of this.

11:11:17 5 Q. Any -- and why did you have that idea?

11:11:22 6 A. Because Kristian said something to that
11:11:25 7 effect.

11:11:25 8 Q. Do you remember anything else that was
11:11:32 9 discussed during that phone call?

11:11:33 10 A. No, I don't.

11:11:34 11 Q. So it says here that you -- you told
11:11:45 12 them that you're not the debtor --

11:11:47 13 A. Correct.

11:11:47 14 Q. -- on -- on this phone call.

11:11:48 15 And so -- so, again, you realized that
11:11:51 16 Chiari & Ilecki was looking for someone other than
11:11:54 17 you. A William J. Wagner other than you.

11:11:56 18 A. Yes.

11:11:56 19 Q. And they weren't trying to collect
11:11:59 20 from -- from you.

11:12:05 21 A. At this point, I started feeling
11:12:10 22 harassed, and I believed they were trying to
11:12:12 23 collect from me.

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11:12:17 1 Q. Well, those are two different things.

11:12:21 2 Did you feel harassed, or did you feel that they
11:12:22 3 were trying to collect from you?

11:12:24 4 A. Both.

11:12:24 5 Q. Okay.

11:12:27 6 A. This matter should have been taken care
11:12:30 7 of the first phone call.

11:12:32 8 Q. Okay. So this was the point at which
11:12:35 9 you felt that they were trying to collect from you?

11:12:37 10 A. Yes.

11:12:37 11 Q. Now, everything that -- that was sent
11:12:44 12 to your address, again, it was sent to William J.
11:12:46 13 Wagner, Jr., correct?

11:12:47 14 A. Correct.

11:12:47 15 Q. And at least the first letter says it's
11:12:49 16 about something having to do with M.J. Peterson,
11:12:51 17 correct?

11:12:52 18 A. Correct.

11:12:52 19 Q. And you knew you didn't owe that debt,
11:12:54 20 correct?

11:12:54 21 A. Correct.

11:12:55 22 Q. And did -- did anyone at Chiari &
11:13:09 23 Ilecki say anything to suggest that they were

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11:13:11 1 looking for anyone other than the real debtor,
11:13:14 2 William J. Wagner, Jr., as of this time?

11:13:23 3 **A.** I don't understand the question,
11:13:32 4 actually.

11:13:32 5 **Q.** Did anyone at Chiari & Ilecki, as of
11:13:37 6 March 19, 2015, do anything or say anything to give
11:13:41 7 you the impression that they were trying to collect
11:13:43 8 a debt from anyone other than the real debtor,
11:13:47 9 William J. Wagner, Jr.?

11:13:48 10 **A.** Well, I felt they were trying to
11:13:50 11 collect it from me.

11:13:51 12 **Q.** What -- did they -- did they say
11:13:55 13 anything along those lines? Did they say anything
11:13:59 14 that suggested that to you?

11:14:00 15 **A.** Not -- not that I can recall.

11:14:02 16 **Q.** What gave you that impression?

11:14:08 17 **A.** What gave me the impression was the
11:14:15 18 whole thing. I mean, I get a letter from them
11:14:18 19 saying I owe this. Does that not say that this was
11:14:21 20 addressed to my house? I call; I tried to resolve
11:14:24 21 it. And she says okay. We're going to send an
11:14:28 22 email to the attorney. We'll take care of it.
11:14:30 23 Then I get letters to my house.

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11:14:32 1 Q. But would you agree that everything
11:14:34 2 that's been sent to you, at least up until this
11:14:37 3 point, is addressed -- let me strike that.

11:14:39 4 Would you agree that all the letters that
11:14:40 5 we've looked at, at least up to this point, are
11:14:42 6 addressed to William J. Wagner, Jr.?

11:14:44 7 A. Yes.

11:14:45 8 Q. And you knew that's not you.

11:14:47 9 A. That's not me.

11:14:47 10 Q. So you knew they were trying to collect
11:14:50 11 from someone else, a William J. -- William
11:14:51 12 J. Wagner, Jr.

11:14:51 13 A. Well, if they were trying to collect
11:14:54 14 from someone else, they were harassing me.

11:14:56 15 Q. Okay. But --

11:14:57 16 A. He didn't live there. I told them at
11:15:00 17 least twice that he didn't live there. That it
11:15:01 18 wasn't me. There was no William J. Wagner, Jr., at
11:15:05 19 the house.

11:15:06 20 Q. And -- and I guess that's sort of --
11:15:09 21 that's the bottom line. You felt harassed by it.

11:15:13 22 A. Yes.

11:15:13 23 Q. You understood -- you understood that

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11:15:16 1 they were trying to collect from someone else, but
11:15:17 2 you felt harassed by it; is that right?

11:15:20 3 **A.** Well, I felt they were trying to
11:15:22 4 collect from me.

11:15:22 5 **Q.** But you knew the -- the letter was not
11:15:24 6 addressed to you, correct?

11:15:25 7 **A.** That's correct. And why it came to my
11:15:29 8 house, I don't know.

11:15:29 9 **Q.** Okay.

11:15:31 10 **A.** So when letters came to my house saying
11:15:34 11 that I owe a debt, I assume that they're trying to
11:15:36 12 collect it from me.

11:15:37 13 **Q.** But the letter doesn't say you owed a
11:15:42 14 debt, does it?

11:15:42 15 **A.** The letter doesn't, but the
11:15:48 16 correspondences kept coming to my house.

11:15:50 17 **Q.** And -- and all of them were -- were not
11:15:52 18 addressed to you.

11:15:53 19 **A.** And they were not addressed to me.

11:15:54 20 **Q.** Right? So that Chiari & Ilecki was not
11:15:56 21 trying to collect from you; you realize that?

11:15:58 22 **A.** I don't realize that. I felt harassed
11:16:03 23 at this point, and I believe that they were trying

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11:16:07 1 to collect from me.

11:16:08 2 Q. But you understood that they were --
11:16:11 3 that the letter, at least that you had seen so far,
11:16:13 4 and the notifications were addressed to William
11:16:15 5 J. Wagner, Jr., and you understood that that was
11:16:17 6 not you.

11:16:17 7 A. Yes. And they should have never come
11:16:21 8 to my house, so you can understand why I would feel
11:16:24 9 like they were harassing me at this point.

11:16:26 10 Q. Did you record your conversation with
11:16:29 11 Kristian --

11:16:30 12 A. No.

11:16:30 13 Q. -- on March 19th?

11:16:32 14 A. No, I didn't.

11:16:33 15 Q. Was anyone else on the phone with you?

11:16:34 16 A. No.

11:16:34 17 Q. Was anyone physically near you when you
11:16:38 18 were on the phone?

11:16:38 19 A. No.

11:16:39 20 Q. What happened next?

11:16:40 21 A. Well, next, I believe I was served with
11:16:47 22 a subpoena.

11:16:48 23 Q. Okay. And when -- when was that?

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11:16:50 1 **A.** Oh, let's see. I don't know if that
11:16:59 2 was the 5/11 date or if it was later than that. I
11:17:06 3 don't recall the actual date.

11:17:09 4 **Q.** If you'd take a look at Exhibit C,
11:17:34 5 page 3, the first entry has -- has a -- is noted a
11:17:43 6 June 17, 2015 telephone call. Correct?

11:17:48 7 **A.** Are you talking about this one here?

11:17:50 8 **Q.** Yes, sir.

11:17:51 9 **A.** That's -- does that go with that date
11:17:53 10 there?

11:17:53 11 **Q.** I believe so. Yes.

11:17:55 12 **A.** All right. Yes.

11:17:55 13 **Q.** Is that -- so when in relation to that
11:17:58 14 telephone call do you think a subpoena was served
11:18:02 15 at your address?

11:18:03 16 **A.** Oh, I probably would have called the
11:18:05 17 very day that it was served.

11:18:12 18 **MR. WOODARD:** Okay. Let's mark as -- where
11:18:18 19 are we? D? I apologize. This one is not stapled.

11:18:18 20 **The following was marked for Identification:**

11:18:18 21 **EXH. D Subpoena duces tecum with**
11:18:18 22 **restraining order, three**
11:19:25 23 **pages**

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11:19:25 1 **BY MR. WOODARD:**

11:19:31 2 **Q.** All right. Mr. Wagner, I'm showing you
11:19:32 3 what's been marked as Exhibit D. If you'd take a
11:19:38 4 look at that, please.

11:19:53 5 Do you recognize what that is, sir?

11:19:55 6 **A.** Yeah. It's the subpoena they served me
11:19:57 7 with.

11:19:58 8 **Q.** Okay. Now, that subpoena is -- is also
11:20:04 9 addressed to the debtor, William J. Wagner, Jr.

11:20:07 10 **A.** Yes.

11:20:08 11 **Q.** Correct?

11:20:08 12 And at the top, it has a caption that says
11:20:17 13 M.J. Peterson, LLC, versus William J. Wagner, Jr.

11:20:19 14 **A.** Right.

11:20:19 15 **Q.** Right?

11:20:20 16 And then a little below it, there's a
11:20:27 17 paragraph that starts whereas, and in the middle of
11:20:30 18 that paragraph it says that a judgment was entered
11:20:33 19 on May 10th, 2006, in favor of said judgment
11:20:37 20 creditor and against judgment debtor William
11:20:40 21 J. Wagner, Jr. Is that correct?

11:20:42 22 **A.** That's correct.

11:20:42 23 **Q.** And so -- and so you understood that

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11:20:46 1 that was not you, the person who was being
11:20:49 2 referenced in there, correct?

11:20:52 3 **A.** Well, I knew it wasn't me.

11:20:53 4 **Q.** You -- you never were involved with a
11:20:56 5 lawsuit with M.J. Peterson?

11:20:57 6 **A.** I was not.

11:20:58 7 **Q.** Okay.

11:20:59 8 **A.** Never.

11:21:00 9 **Q.** Okay. So you knew a judgment had not
11:21:02 10 been entered against you.

11:21:03 11 **A.** That's true.

11:21:03 12 **Q.** Now, how -- how was this subpoena
11:21:09 13 served?

11:21:09 14 **A.** The server drove up into my yard, and I
11:21:15 15 was in my yard at the time, and he handed it to me.

11:21:17 16 **Q.** Okay. Can you describe him?

11:21:19 17 **A.** Can I describe him?

11:21:20 18 **Q.** Or her.

11:21:21 19 **A.** White male. Probably my size. Dark
11:21:26 20 hair.

11:21:26 21 **Q.** Well, do you know whether he was an
11:21:29 22 employee of Chiari & Ilecki or whether he was an
11:21:31 23 independent process server?

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11:21:34 1 **A.** I don't know that.

11:21:35 2 **Q.** Okay. Did he -- did he hand the
11:21:39 3 subpoena directly to you?

11:21:40 4 **A.** Yes, he did.

11:21:40 5 **Q.** Did he hand you anything other than the
11:21:42 6 subpoena?

11:21:42 7 **A.** No.

11:21:43 8 **Q.** Did you speak with him at all?

11:21:49 9 **A.** Yes, we did.

11:21:50 10 **Q.** What -- who spoke first?

11:21:52 11 **A.** Well, he did.

11:21:53 12 **Q.** What did he say?

11:21:54 13 **A.** Have you ever been served before? In a
11:21:57 14 loud voice that my neighbors could hear --

11:21:59 15 **Q.** Okay.

11:21:59 16 **A.** -- if -- if anybody had been out, and I
11:22:02 17 don't know if they did.

11:22:03 18 **Q.** Okay. Do you recall seeing anyone
11:22:05 19 outside?

11:22:06 20 **A.** No, I don't.

11:22:07 21 **Q.** Do you recall hearing anyone outside?

11:22:10 22 **A.** No.

11:22:10 23 **Q.** Okay. So as far as you know, no one

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11:22:13 1 was outside?

11:22:13 2 **A.** I don't know.

11:22:14 3 **Q.** Can you point anything that would lead
11:22:16 4 you to believe someone was outside?

11:22:17 5 **A.** Who knows?

11:22:18 6 **Q.** Can you point anything specific?

11:22:21 7 **A.** Well, I -- I already said I didn't see
11:22:23 8 or hear anyone. But that doesn't mean that someone
11:22:26 9 wasn't --

11:22:26 10 **Q.** Sure. I'm just --

11:22:27 11 **A.** -- in range hearing --

11:22:29 12 **Q.** I'm just trying to gather a --

11:22:30 13 **A.** -- since the houses are pretty close
11:22:32 14 there.

11:22:32 15 **Q.** Okay. And what did you say in response
11:22:39 16 to what the process server said?

11:22:43 17 **A.** I told him to keep his voice down.

11:22:47 18 **Q.** What did he say in response to that?

11:22:48 19 **A.** Not much.

11:22:50 20 **Q.** What was the rest of your communication
11:22:53 21 with him?

11:22:54 22 **A.** Well, he seemed to be focused on how
11:22:57 23 young I look for my age --

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11:23:00 1 Q. That's a good thing.

11:23:01 2 A. -- which was strange. We may have said
11:23:03 3 one or two other things, which I don't remember.
11:23:05 4 That -- that, I kind of remember, because that
11:23:09 5 stood out.

11:23:10 6 Q. Yeah. Did you and the process server
11:23:18 7 discuss what he was handing to you?

11:23:22 8 A. No.

11:23:23 9 Q. Did he ask you to sign for it?

11:23:26 10 A. I don't remember that.

11:23:27 11 Q. Did you have any discussion with him
11:23:35 12 about the debtor or the debt?

11:23:38 13 A. Not that I can recall.

11:23:39 14 Q. Do you recall anything else that was
11:23:45 15 said during your communication with --

11:23:47 16 A. No, I don't.

11:23:48 17 Q. -- the process server?

11:23:49 18 A. No.

11:23:50 19 Q. Was the -- the subpoena that he served,
11:23:57 20 was it in an envelope, or was it just pieces of
11:24:00 21 paper?

11:24:00 22 A. It was in an envelope.

11:24:02 23 Q. Okay. Did you open it in front of him,

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11:24:04 1 do you recall?

11:24:04 2 **A.** I don't believe I did.

11:24:05 3 **Q.** Okay. So then at some point you opened
11:24:07 4 it on your own?

11:24:08 5 **A.** Yes.

11:24:08 6 **Q.** Okay. And how did you respond?

11:24:23 7 **A.** Well, I called the office again.

11:24:25 8 **Q.** So if you look back on the events log,
11:24:35 9 again, at the top of page 3 there's an entry that
11:24:38 10 says Karen, William -- or Wagner, William J., Jr.,
11:24:44 11 M.J. Peterson LLC, 6/17/2015 telephone call?

11:24:49 12 **A.** Yes.

11:24:49 13 **Q.** Is that -- is that the telephone call
11:24:51 14 you're referring to?

11:24:52 15 **A.** Yes.

11:24:52 16 **Q.** Okay. So I'll read the description
11:24:54 17 that's next to it, if you could read it along to
11:24:56 18 yourself.

11:24:58 19 A William Wagner calls office. Served with
11:25:01 20 papers. Said not him, and no junior lives there.
11:25:05 21 He doesn't even have a junior in family. Told
11:25:09 22 William per conversation with KB. He was to send
11:25:14 23 in driver's lic, L-I-C, license, and never

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11:25:20 1 received. D thought sent out. Claims we are
11:25:25 2 harassing him, and he's contacted his attorney.

11:25:30 3 Did I read that correctly?

11:25:32 4 **A.** Yes.

11:25:32 5 **Q.** So does -- does that accurately
11:25:41 6 characterize your conversation on June 17th?

11:25:47 7 **A.** I believe it does.

11:25:48 8 **Q.** Okay. Do you -- do you recall anything
11:25:49 9 else that was said during that conversation?

11:25:51 10 **A.** I never agreed to send in my driver's
11:25:56 11 license.

11:25:56 12 **Q.** You never did?

11:25:57 13 **A.** No.

11:25:57 14 **Q.** Okay. And --

11:25:59 15 **A.** We talked about it. I never agreed to
11:26:00 16 do that.

11:26:01 17 **Q.** Okay. And at -- at no point did you
11:26:04 18 send in your driver's license to Chiari & Ilecki?

11:26:06 19 **A.** At no point did I.

11:26:07 20 **Q.** At no point did you send in your Social
11:26:10 21 Security card?

11:26:10 22 **A.** I did not.

11:26:10 23 **Q.** And -- and at no point did you give

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11:26:13 1 Chiari & Ilecki your -- your complete Social
11:26:15 2 Security number?

11:26:15 3 **A.** I did not.

11:26:16 4 **Q.** Okay. Did -- did you ever send them or
11:26:19 5 tell them any verifiable proof of your identity at
11:26:25 6 any point in time?

11:26:25 7 **A.** Well, I tried to give them part of my
11:26:28 8 Social Security number and my date of birth.

11:26:33 9 **Q.** Did you ever give them any other
11:26:35 10 information?

11:26:35 11 **A.** I believe I mentioned that I had lived
11:26:37 12 in my house since 1984.

11:26:40 13 **Q.** Any other information?

11:26:41 14 **A.** At this time, I can't remember that.

11:26:43 15 **Q.** Okay. And I'm -- I'm referring to any
11:26:46 16 conversations you've ever had with Chiari & Ilecki.
11:26:48 17 You don't recall any other information that you
11:26:49 18 gave them at this time?

11:26:52 19 **A.** No. That's -- that's pretty much it.

11:26:54 20 **Q.** Okay. Turning back to the June 17th
11:26:59 21 conversation specifically, so you indicated to
11:27:08 22 Chiari & Ilecki that William J. Wagner, Jr., here,
11:27:12 23 that was not you. Correct?

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11:27:14 1 **A.** Correct.

11:27:14 2 **Q.** So you -- you understood that this
11:27:15 3 person was not you, but you felt -- you felt
11:27:20 4 harassed by them.

11:27:20 5 **A.** Yes.

11:27:21 6 **Q.** Right?

11:27:21 7 **A.** Exactly.

11:27:22 8 **Q.** Okay. So can you understand --
11:27:26 9 Strike that.

11:27:31 10 I guess, to you, is that what this case is
11:27:36 11 about? It's you feel harassed by -- by what
11:27:39 12 occurred?

11:27:40 13 **A.** Most assuredly.

11:27:42 14 **Q.** Okay. Now, did -- did you record the
11:27:58 15 June 17th conversation?

11:27:59 16 **A.** No, I did not.

11:28:00 17 **Q.** Did -- was anyone else on the phone
11:28:03 18 with you?

11:28:03 19 **A.** No.

11:28:04 20 **Q.** And was anyone in the room or
11:28:05 21 physically near you when the conversation occurred?
11:28:08 22 No?

11:28:08 23 **A.** No.

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11:28:09 1 Q. Okay. What happened after that?

11:28:15 2 A. Well, I contacted my attorney.

11:28:18 3 Q. And did you have any further

11:28:23 4 communication with Chiari & Ilecki after this

11:28:27 5 June 17th call?

11:28:28 6 A. I did not.

11:28:29 7 Q. Okay. Have you told us about all --

11:28:34 8 any interaction or communication or correspondence,

11:28:36 9 anything with Chiari & Ilecki that -- that happened

11:28:39 10 in this case?

11:28:40 11 A. To the best of my knowledge.

11:28:41 12 Q. Okay. Since the June 17th phone call,

11:28:51 13 has anything else from Chiari & Ilecki been sent to

11:28:54 14 your address?

11:28:56 15 A. I don't believe so.

11:28:57 16 Q. Okay. Are you aware of anything that

11:29:05 17 Chiari & Ilecki has said either to you or to anyone

11:29:08 18 else about this lawsuit that you haven't already

11:29:10 19 told us?

11:29:11 20 A. I've not aware of anything.

11:29:15 21 Q. Okay. Has anyone other than your

11:29:18 22 attorney spoken critically or negatively about

11:29:24 23 Chiari & Ilecki -- Chiari & Ilecki's actions here?

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11:29:32 1 **A.** You've got to rephrase that question.
11:29:34 2 That doesn't make sense to me.

11:29:36 3 **Q.** Sure. Has -- has anyone other than
11:29:37 4 your attorney criticized Chiari & Ilecki, what --
11:29:40 5 what they allegedly did here?

11:29:42 6 **A.** I don't know who criticizes Chiari &
11:29:44 7 Ilecki. I have no -- no clue who does.

11:29:46 8 **Q.** Sure. To you, has anyone spoken
11:29:49 9 negatively about what Chiari & Ilecki did in this
11:29:52 10 case other than your attorney?

11:29:53 11 **A.** No. I've not talked to anybody else --

11:29:56 12 **Q.** Okay.

11:29:56 13 **A.** -- about this.

11:30:04 14 **MR. WOODARD:** Okay. Let's mark this one as
11:30:08 15 the next exhibit.

11:30:08 16 **The following was marked for Identification:**
11:30:08 17 **EXH. E Letter dated February 9, 2015, from**
11:30:08 18 **Melissa Overbeck to William**
11:30:46 19 **J. Wagner, Jr.**

11:30:46 20 **BY MR. WOODARD:**

11:30:47 21 **Q.** Now, Mr. Wagner, I'm showing you what's
11:30:50 22 been marked as Exhibit E.

11:30:51 23 **A.** Mm-hmm.

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11:30:51 1 Q. Do you recognize what that is?

11:30:53 2 A. Yes.

11:30:53 3 Q. What is it?

11:30:54 4 A. That's the letter I received.

11:30:57 5 Q. Okay. And there's some handwritten

11:31:02 6 notes on this document, correct?

11:31:03 7 A. Yes. Yes, there are.

11:31:05 8 Q. Did you write both of those?

11:31:06 9 A. Yes, I did.

11:31:07 10 Q. I notice that they're in slightly

11:31:09 11 different handwritings, but -- but you think you

11:31:12 12 wrote both of them?

11:31:13 13 A. I wrote both of those.

11:31:14 14 Q. Okay. I mean, the one's in cursive,

11:31:16 15 and one's in block lettering.

11:31:18 16 A. Yeah.

11:31:18 17 Q. Okay. And do you recall when you wrote

11:31:24 18 those notes?

11:31:25 19 A. Do I recall when I wrote them?

11:31:26 20 Q. Mm-hmm.

11:31:27 21 A. On the dates I have established.

11:31:29 22 Q. Okay. So the -- the -- you wrote them

11:31:32 23 on the dates that are written on here; is that

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11:31:34 1 right?

11:31:34 2 **A.** Yes.

11:31:35 3 **Q.** The -- the one says February 12, 2015,
11:31:38 4 correct?

11:31:38 5 **A.** Yes.

11:31:38 6 **Q.** And you wrote that on that sometime
11:31:41 7 that day?

11:31:41 8 **A.** Yes, I did. As I was speaking.

11:31:43 9 **Q.** Okay. So -- okay. And -- and the --
11:31:46 10 the other note at the bottom of the page says
11:31:48 11 March 19, 2015, right?

11:31:50 12 **A.** Right.

11:31:50 13 **Q.** And you wrote that on that date as
11:31:53 14 well, you're saying?

11:31:53 15 **A.** Well, yes.

11:31:55 16 **Q.** Was it on that date, or you think it
11:31:57 17 was on some other date?

11:31:58 18 **A.** No. It was on that date. It was on
11:32:00 19 that date.

11:32:00 20 **Q.** Okay. I notice that you wrote a time
11:32:07 21 under the first note but not under the second note.
11:32:09 22 Is there any reason for that?

11:32:10 23 **A.** No.

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11:32:10 1 Q. Okay. And the time under the first
11:32:14 2 note, is that about the time that you spoke with
11:32:17 3 Chiari & Ilecki on February 12th?

11:32:19 4 A. Yes.

11:32:20 5 Q. Okay. Did you make a note from the --
11:32:25 6 the June 2015 call?

11:32:27 7 A. No, I didn't.

11:32:28 8 Q. Okay. And was there a reason for that?

11:32:29 9 A. No.

11:32:30 10 Q. Now, Mr. Wagner, have you suffered any
11:32:51 11 damages or injuries as a result of Chiari &
11:32:54 12 Ilecki's actions at issue here?

11:32:58 13 A. You mean like psychological or
11:33:03 14 physical?

11:33:03 15 Q. Any -- any kind -- how have you been
11:33:06 16 harmed at all, if you feel like you've been harmed
11:33:09 17 in any way?

11:33:09 18 A. Well, I'm sure that I'm suffering from
11:33:14 19 hypertension. Phone calls, I -- I mean, they were
11:33:17 20 not friendly phone calls. I -- you know. I think
11:33:25 21 about this at different times of day and night.
11:33:28 22 You know, someone trying to badger me into
11:33:31 23 collecting a debt that I don't owe. So I -- a

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11:33:35 1 little sleeplessness, nervousness, upset stomach
11:33:39 2 that -- you know, there's all sorts of things that
11:33:41 3 happen. But hypertension is one thing that
11:33:49 4 certainly I experience.

11:33:52 5 Q. And any other conditions like that that
11:33:56 6 you've experienced?

11:33:57 7 A. There may be. I -- I -- those are the
11:34:00 8 ones that come to mind right now.

11:34:02 9 Q. Okay. And you never ultimately had to
11:34:08 10 do anything in response to the -- the subpoena that
11:34:13 11 you received. Correct? I'll -- let me rephrase
11:34:19 12 that.

11:34:19 13 You never were -- were deposed or had to
11:34:24 14 turn over any documents --

11:34:26 15 A. No.

11:34:26 16 Q. -- in response to the subpoena,
11:34:28 17 correct?

11:34:28 18 A. Correct.

11:34:29 19 Q. Have you incurred any expenses as a
11:34:32 20 result of Chiari & Ilecki's alleged actions?

11:34:37 21 A. I don't believe so. There may be legal
11:34:42 22 fees coming up. I don't know.

11:34:43 23 Q. Now, you mentioned that you experienced

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11:34:54 1 hypertension.

11:34:56 2 **A.** Mm-hmm.

11:34:57 3 **Q.** Do you have a history of hypertension?

11:34:59 4 **A.** Yes.

11:35:01 5 **Q.** Do you receive medical treatment on --

11:35:06 6 **A.** Yes.

11:35:06 7 **Q.** -- account of hypertension?

11:35:07 8 **A.** Yes, I do.

11:35:07 9 **Q.** How long have you been -- have you
11:35:09 10 received that for?

11:35:09 11 **A.** Probably 20 years.

11:35:11 12 **Q.** Okay. Are -- are you medicated --

11:35:14 13 **A.** Yes.

11:35:14 14 **Q.** -- for that?

11:35:26 15 And what -- what's your understanding of
11:35:28 16 what hypertension means?

11:35:30 17 **A.** Well, to me, it's a -- a rise in blood
11:35:35 18 pressure --

11:35:35 19 **Q.** Okay.

11:35:37 20 **A.** -- which I experienced that day after
11:35:39 21 the phone call.

11:35:40 22 **Q.** You could feel your --

11:35:44 23 **A.** No. I take my blood pressure on a

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11:35:45 1 regular basis.

11:35:46 2 Q. Okay. What -- what's your normal blood
11:35:50 3 pressure?

11:35:50 4 A. I want to say about 140 over 80.

11:36:02 5 Q. And that was the case as of January and
11:36:07 6 February 2015, as well?

11:36:10 7 A. Well, on any given day, it can be
11:36:14 8 anything.

11:36:14 9 Q. Okay. And what was your blood pressure
11:36:16 10 after -- when you took it and it was elevated after
11:36:19 11 one of those instances?

11:36:20 12 A. After the subpoena, it was about 210
11:36:25 13 over 95.

11:36:26 14 Q. Okay. And were you taking your
11:36:31 15 medication at the time?

11:36:32 16 A. Oh, yes.

11:36:32 17 Q. Are there other instances when your
11:36:36 18 blood pressure has arisen that high?

11:36:39 19 A. No.

11:36:42 20 Q. What's the highest it's gone on any
11:36:44 21 other occasion?

11:36:45 22 A. Probably about 190 over 90 or so.

11:36:57 23 Q. And do you know how long it -- it

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11:37:04 1 remained at 210 over 95?

11:37:08 2 **A.** Well, I went to bed about 10 o'clock,
11:37:14 3 so it was still up high.

11:37:16 4 **Q.** And it was okay in the morning?

11:37:20 5 **A.** Say that again.

11:37:21 6 **Q.** It was okay in the morning?

11:37:22 7 **A.** The next morning? I'd have to look
11:37:27 8 back and see if I have notes on that, but --

11:37:30 9 **Q.** Okay.

11:37:30 10 **A.** -- I -- I don't want to say right now.

11:37:32 11 **Q.** Do you keep a log or some sort of notes
11:37:37 12 about your blood pressure?

11:37:37 13 **A.** I do.

11:37:38 14 **Q.** Okay.

11:37:38 15 **A.** I do.

11:37:39 16 **Q.** Is that something you did before
11:37:41 17 February 2015?

11:37:42 18 **A.** Yes.

11:37:43 19 **Q.** How long -- how long have you been
11:37:45 20 doing that?

11:37:45 21 **A.** Oh, probably about three years.

11:37:48 22 **Q.** Okay. Have -- have you told any
11:38:00 23 doctors or medical care providers about this

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11:38:05 1 instance?

11:38:06 2 **A.** What instance are you talking about?

11:38:11 3 **Q.** Any of the events at issue in this
11:38:13 4 lawsuit.

11:38:14 5 **A.** I didn't mention it directly, no.

11:38:16 6 **Q.** Okay. So you didn't tell -- you didn't
11:38:19 7 tell any doctor or medical care provider that
11:38:21 8 you -- your blood pressure was up because of
11:38:23 9 something Chiari & Ilecki did?

11:38:24 10 **A.** I don't believe I did, no.

11:38:26 11 **Q.** Okay. Have you sought out any
11:38:37 12 additional medical treatment or counseling as a
11:38:40 13 result of this -- of the actions at issue in this
11:38:44 14 lawsuit?

11:38:44 15 **A.** No.

11:38:45 16 **Q.** You said that you have experienced
11:39:02 17 nervousness as well. Can you describe that to us?

11:39:05 18 **A.** Well, it's really to the hypertension.
11:39:11 19 And, like I say, at night when I wake up or
11:39:18 20 whatever, I -- I think about -- I was thinking
11:39:21 21 about it quite a bit at that time. And it would,
11:39:29 22 you know, make me feel nervous and anxious.

11:39:33 23 **Q.** You mentioned that -- that you'd woken

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11:39:44 1 up at night thinking about this. About the events
11:39:47 2 at issue in this lawsuit.

11:39:48 3 **A.** Sometimes, yes.

11:39:49 4 **Q.** How many times was that, would you say?

11:39:50 5 **A.** Well --

11:39:54 6 **Q.** Or time?

11:39:55 7 **A.** It would have been probably four or
11:40:02 8 five times around the time of that letter. That
11:40:04 9 letter really upset me.

11:40:05 10 **Q.** Okay. Are you talking about the
11:40:07 11 subpoena?

11:40:07 12 **A.** Yes.

11:40:07 13 **Q.** Okay. Do you -- do you often wake up
11:40:14 14 at night, not necessarily because of this, but just
11:40:16 15 generally?

11:40:19 16 **A.** I do.

11:40:22 17 **Q.** Have you suffered from insomnia before
11:40:25 18 February of 2015?

11:40:26 19 **A.** I wouldn't say I suffer from insomnia.

11:40:30 20 **Q.** You just wake up at -- you -- it's not
11:40:33 21 uncommon for you to wake up, even before
11:40:37 22 February 2015?

11:40:37 23 **A.** I wake up and go back to sleep. You

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11:40:40 1 know. Do what you have to do and go back to sleep.

11:40:43 2 Q. Okay.

11:40:44 3 A. On these occasions, I found it a little
11:40:46 4 harder to go back to sleep.

11:40:48 5 Q. Sure. And did you suffer from
11:40:50 6 nervousness before February 2015?

11:40:54 7 A. Hmm. I would say not to the same
11:40:58 8 extent.

11:40:58 9 Q. Okay. You experienced some nervousness
11:41:02 10 before February 2015?

11:41:03 11 A. Yeah. There was nervousness related to
11:41:06 12 this incident.

11:41:06 13 Q. Okay. But you've experienced similar
11:41:08 14 nervousness before?

11:41:09 15 A. I don't know.

11:41:10 16 Q. Okay. And you said you -- you've not
11:41:16 17 sought medical treatment or counseling as a result
11:41:18 18 of --

11:41:19 19 A. That's true.

11:41:19 20 Q. -- of these -- these events?

11:41:22 21 A. That's true.

11:41:22 22 MR. WOODARD: Okay. Okay. Let's mark this
11:41:42 23 as the next exhibit. Are we at F?

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11:41:42 1 **The following was marked for Identification:**
11:41:42 2 **EXH. F Plaintiff's Response to Defendant's**
11:42:31 3 **first set of interrogatories**

11:42:31 4 **BY MR. WOODARD:**

11:42:31 5 **Q.** Thank you.

11:42:32 6 If you'd take a look at Exhibit F which I
11:42:39 7 just handed you, Mr. Wagner.

11:42:42 8 **A.** Yes.

11:42:42 9 **Q.** Have you seen that before?

11:42:44 10 **A.** Yes.

11:42:45 11 **Q.** And if you flip to the last page,
11:43:18 12 does -- it's dated September 23, 2016, correct?

11:43:25 13 **A.** Correct.

11:43:25 14 **Q.** Is that about the time that -- that you
11:43:27 15 recall seeing it?

11:43:35 16 **A.** Approximately.

11:43:36 17 **Q.** Okay. And were you asked to verify
11:43:47 18 your responses to the interrogatories --

11:43:52 19 **A.** Yes.

11:43:52 20 **Q.** -- that are on Exhibit F?

11:43:54 21 **A.** Yes, I was.

11:43:55 22 **Q.** Okay. Now, I'll draw your attention to
11:44:10 23 page 4 to interrogatory number 4.

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11:44:17 1 **A.** Yes.

11:44:17 2 **Q.** Now, interrogatory number 4 states,
11:44:20 3 describe in detail the emotional distress and
11:44:22 4 nervous, upset, anxious state that Plaintiff
11:44:25 5 allegedly has experienced as a result of
11:44:26 6 Defendant's alleged violations of the FDCPA. Is
11:44:29 7 that correct?

11:44:29 8 **A.** Yes.

11:44:29 9 **Q.** And then if you look at -- down at your
11:44:33 10 response, it says, he -- I believe referring to
11:44:37 11 you -- also suffered humiliation and embarrassment
11:44:40 12 and nervousness regarding what his neighbors
11:44:42 13 possibly heard when the process server served him
11:44:46 14 with a subpoena signed by Melissa Overbeck.

11:44:48 15 **A.** Yes.

11:44:49 16 **Q.** Is that the -- what you described to us
11:44:51 17 already, about the possibility --

11:44:52 18 **A.** Yes.

11:44:52 19 **Q.** -- of someone being outside?

11:44:54 20 **A.** Yes, it is.

11:44:55 21 **Q.** But you didn't hear or see anyone
11:44:58 22 outside?

11:44:58 23 **A.** I did not.

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11:44:58 1 Q. Okay. In addition to what you've told
11:45:08 2 us today and what is written in response to
11:45:13 3 interrogatory number 4, have you experienced any
11:45:15 4 other emotional injuries or psychological injuries
11:45:23 5 as a result of the events at issue?

11:45:30 6 A. Well, emotionally, I -- I've been
11:45:35 7 affected by this.

11:45:37 8 Q. And have you --

11:45:38 9 A. I've been a -- I've been a person who
11:45:40 10 has always paid any bills that I've owed. And to
11:45:46 11 be basically accused of being a debtor and have to
11:45:50 12 produce my financial records for people I don't
11:45:55 13 even know, yes, that affects me. That affects me
11:45:59 14 greatly.

11:45:59 15 Q. But wouldn't you agree, sir, that at
11:46:03 16 least all the documents we've looked at today were
11:46:05 17 all addressed to William J. Wagner, Jr., correct?

11:46:08 18 A. And directed at me as --

11:46:11 19 Q. But -- but --

11:46:11 20 A. -- someone who could possibly be that
11:46:12 21 person. And no matter what I said, they kept
11:46:16 22 coming and coming and coming, until, finally, I had
11:46:19 23 to get a lawyer to get you off my back.

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11:46:22 1 **Q.** Did -- at all times, though, you
11:46:27 2 understood that you were, in fact, not William
11:46:31 3 J. Wagner, Jr., who owed the debt?

11:46:32 4 **MR. ANDREWS:** Objection. Asked and
11:46:33 5 answered. You can answer.

11:46:34 6 **THE WITNESS:** Well, I knew I wasn't William
11:46:37 7 J. Wagner, Jr.

11:46:37 8 **BY MR. WOODARD:**

11:46:37 9 **Q.** Okay. So you knew that -- that the
11:46:41 10 letter, the subpoena that we've looked at, they
11:46:44 11 were not addressed to you. They were addressed to
11:46:47 12 William J. Wagner, Jr., correct?

11:46:48 13 **A.** They were addressed to my house.

11:46:49 14 **Q.** But they were addressed to William
11:46:51 15 J. Wagner, Jr.

11:46:51 16 **A.** At my house.

11:46:52 17 **Q.** Is that correct?

11:46:53 18 **A.** Yes.

11:46:54 19 **Q.** Okay. And Chiari & Ilecki never asked
11:47:05 20 anyone other than William J. Wagner, Jr., to
11:47:08 21 satisfy the debt at issue, correct?

11:47:11 22 **A.** I don't know what she's done.

11:47:12 23 **Q.** Chiari & Ilecki never asked you, if you

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11:47:14 1 were not William J. Wagner, Jr., to satisfy the
11:47:18 2 debt at issue, correct?

11:47:19 3 **MR. ANDREWS:** Objection to form. You can
11:47:21 4 answer.

11:47:22 5 **THE WITNESS:** Well, when you're getting
11:47:27 6 subpoenas at your house, at your address, you
11:47:31 7 assume that they're trying to collect a debt from
11:47:33 8 you.

11:47:33 9 **BY MR. WOODARD:**

11:47:33 10 **Q.** You knew you were not the person they
11:47:35 11 were looking for, though, right?

11:47:37 12 **A.** Yes.

11:47:37 13 **Q.** Okay. Aside from what you've already
11:47:47 14 told us, did you experience any other emotional or
11:47:49 15 psychological injury as a result of the events at
11:47:52 16 issue?

11:47:52 17 **A.** No. Just -- just what we spoke about.

11:47:55 18 **Q.** Okay. I'd ask you to look at
11:48:08 19 page number 2, interrogatory number 1, sir, please.
11:48:21 20 Now, this interrogatory asked you to identify
11:48:23 21 anyone who may have information or knowledge
11:48:26 22 relevant to this action, correct?

11:48:28 23 **A.** Yes.

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11:48:28 1 Q. And it states Plaintiff -- the response
11:48:32 2 says Plaintiff, Seth J. Andrews, Esquire, and
11:48:35 3 Kenneth R. Hiller, Esquire; is that correct?

11:48:38 4 A. Yes.

11:48:38 5 Q. Does anyone -- does anyone other than
11:48:41 6 those individuals, and anyone at Chiari & Ilecki,
11:48:44 7 have knowledge or information relevant to the
11:48:47 8 events at issue here?

11:48:48 9 A. No.

11:48:49 10 Q. If I could draw your attention to
11:49:17 11 pages 7 and 8, interrogatory number 13. Now, that
11:49:24 12 interrogatory asks for you to identify each and
11:49:26 13 every act or omission which Plaintiff claims was in
11:49:30 14 violation of the FDCPA. Is that -- is that
11:49:33 15 correct?

11:49:33 16 A. Mm-hmm. Yes.

11:49:34 17 Q. And in -- in your response on the next
11:49:39 18 page, it says Defendant violated sections listed in
11:49:44 19 response to interrogatory number 14 by sending
11:49:46 20 letters addressed to the Plaintiff in an attempt to
11:49:49 21 collect a debt the Plaintiff does not owe and by
11:49:55 22 serving Plaintiff with a subpoena for a debtor
11:49:58 23 exam. Is that correct?

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11:50:00 1 **A.** That's what it says, yes.

11:50:02 2 **Q.** Have -- have we talked about all the
11:50:06 3 letters and the subpoena which were referenced
11:50:08 4 here?

11:50:11 5 **A.** Yes, we have.

11:50:12 6 **Q.** Okay.

11:50:15 7 **MR. ANDREWS:** Just for the record, I think
11:50:17 8 that's a typo. It should be number 12 instead
11:50:21 9 interrogatory number 14.

11:50:22 10 **MR. WOODARD:** Okay. I'm sorry. Thank you
11:50:23 11 for clarifying.

11:50:47 12 Let's mark this as the next exhibit.

11:50:47 13 **The following was marked for Identification:**

11:50:47 14 **EXH. G Plaintiff's response to Defendant's**
11:50:47 15 **first set of requests for**
11:50:47 16 **production of documents and**
11:51:39 17 **things**

11:51:39 18 **BY MR. WOODARD:**

11:51:41 19 **Q.** Thank you.

11:51:41 20 Before we look at -- at the next exhibit,
11:51:44 21 would you agree that if a debt collector had
11:51:47 22 information suggesting that the debtor lived at
11:51:50 23 your address, they couldn't simply take your word

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11:51:53 1 for it that -- that the debtor did not live there
11:51:56 2 unless you sent them some -- some verifiable proof?

11:52:00 3 **A.** Well, I tried to give them proof over
11:52:02 4 the phone. They wouldn't listen to me.

11:52:05 5 **Q.** And -- and the proof that you're
11:52:07 6 talking about is a partial Social Security number
11:52:09 7 and date of birth?

11:52:10 8 **A.** Yes.

11:52:10 9 **Q.** Okay. But would you agree as a general
11:52:17 10 matter that if a debt collector has information
11:52:21 11 suggesting that the debtor lives at your address,
11:52:24 12 they couldn't simply take your word for it unless
11:52:27 13 they received some verifiable proof, just as a
11:52:29 14 general matter?

11:52:30 15 **A.** I don't know what debt collectors do.

11:52:34 16 **Q.** Let's take a look at -- at the next
11:52:36 17 exhibit, which is Exhibit G.

11:52:59 18 **A.** This is different from the first one?

11:53:02 19 **Q.** I -- I believe it is, sir. Is
11:53:05 20 Exhibit G labeled Plaintiff's response to
11:53:07 21 Defendant's first set of requests for production of
11:53:09 22 documents and things?

11:53:10 23 **A.** Oh, okay.

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11:53:11 1 Q. Is that -- is that correct?

11:53:12 2 A. Yeah.

11:53:13 3 Q. Okay. Have you seen this document
11:53:16 4 before?

11:53:16 5 A. I believe I have.

11:53:23 6 Q. Okay. Can you turn to page number 3,
11:53:34 7 please? Directing your attention to request
11:53:42 8 number 4, it says -- it asks you to produce any and
11:53:49 9 all documents concerning the service or delivery or
11:53:51 10 attempted service or delivery of any subpoena or
11:53:54 11 correspondence from Defendant. Correct?

11:53:57 12 A. That's what it says, yes.

11:53:59 13 Q. And did you produce the notifications
11:54:02 14 from the postal service in response to this
11:54:05 15 request?

11:54:05 16 A. We're not sure.

11:54:08 17 Q. Okay. Would you agree they're
11:54:11 18 responsive to the request?

11:54:12 19 A. Say that again?

11:54:13 20 Q. Do you agree that they -- they're what
11:54:15 21 is being asked for in request number 4, right?

11:54:20 22 A. They may be, yes.

11:54:21 23 Q. Okay. If you could look -- look at

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11:55:02 1 page 8, please, request number 16. That requests
11:55:17 2 for -- that -- that request is for any and all
11:55:20 3 medical therapy, counseling, or mental health
11:55:22 4 records or other documents concerning any emotional
11:55:26 5 distress or nervous, upset, or anxious state
11:55:32 6 experienced by Plaintiff from 2005 to present,
11:55:36 7 correct?

11:55:37 8 **A.** Correct.

11:55:37 9 **Q.** Now, you -- you mentioned that you keep
11:55:39 10 notes regarding your hypertension or your --

11:55:43 11 **A.** Yes.

11:55:43 12 **Q.** -- your blood pressure, right?

11:55:44 13 **A.** Yes, I do.

11:55:44 14 **Q.** Okay. And -- and you've not yet
11:55:48 15 produced those, correct?

11:55:50 16 **A.** I have not.

11:55:50 17 **Q.** Okay. Do you -- do you have any other
11:55:53 18 notes that you usually keep with regard to your
11:55:56 19 medical condition?

11:55:56 20 **A.** No.

11:55:57 21 **Q.** Do you have other medical records at
11:55:59 22 home that might relate to the damages that you're
11:56:03 23 claiming in this lawsuit?

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11:56:04 1 **A.** No.

11:56:05 2 **Q.** Okay. Aside from the -- aside from --
11:56:22 3 from the hypertension caused -- allegedly caused by
11:56:26 4 the events at issue here, you said that you
11:56:29 5 regularly receive treatment for hypertension.

11:56:30 6 **A.** Yes.

11:56:30 7 **Q.** Is that correct, generally?

11:56:31 8 **A.** Yes.

11:56:32 9 **Q.** And there -- is there a doctor that you
11:56:34 10 regularly see?

11:56:35 11 **A.** Yes.

11:56:35 12 **Q.** And who's that?

11:56:36 13 **A.** His name is Mark Kim.

11:56:40 14 **Q.** Okay. Does he -- does he have a
11:56:41 15 practice?

11:56:41 16 **A.** Yes.

11:56:42 17 **Q.** Is he here in Buffalo?

11:56:43 18 **A.** Yes.

11:56:43 19 **Q.** Where is his practice located?

11:56:45 20 **A.** He's at Buffalo Medical Group.

11:56:49 21 **Q.** Okay.

11:56:49 22 **A.** So he's all over the place.

11:56:51 23 **Q.** Sure. Is -- other than Dr. Kim, do you

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11:56:55 1 see anyone else for hypertension?

11:56:57 2 **A.** I'm seeing a heart doctor at the
11:57:02 3 moment.

11:57:02 4 **Q.** Okay. And how long have you been
11:57:04 5 seeing the heart doctor?

11:57:05 6 **A.** That's just recently.

11:57:06 7 **Q.** Is that specifically related to this
11:57:09 8 lawsuit, or is that separate?

11:57:11 9 **A.** That's just something that -- I've
11:57:14 10 experienced some chest pain recently and went to
11:57:17 11 have it checked out.

11:57:18 12 **Q.** Sure. Who did you see?

11:57:20 13 **A.** His name is Dr. Riegel. I believe it's
11:57:28 14 R-I-E-G-L-E.

11:57:30 15 **Q.** Okay.

11:57:32 16 **A.** And he's with Buffalo Medical Group
11:57:34 17 also.

11:57:34 18 **Q.** Okay. Have you treated with any other
11:57:37 19 medical providers for emotional distress or feeling
11:57:42 20 nervous or not being able to sleep?

11:57:45 21 **A.** No.

11:57:45 22 **Q.** I ask you to take a look at request
11:58:06 23 number 20 on page 10. And that request is for any

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11:58:17 1 and all documents in Plaintiffs's possession,
11:58:19 2 custody, or control that Plaintiff claims are
11:58:22 3 relevant in any way to the subject matter of this
11:58:24 4 action. Right?

11:58:25 5 **A.** Yes.

11:58:26 6 **Q.** Are there any -- do you have any such
11:58:30 7 documents other than what you've already given us
11:58:32 8 or that you've already discussed today?

11:58:34 9 **A.** No, I don't.

11:58:35 10 **Q.** Okay. So there's nothing that you
11:58:38 11 would plan to rely on if this case went to trial,
11:58:41 12 at least at this point, other than what you've
11:58:44 13 given us or what you've told us about today?

11:58:46 14 **A.** Well, our objection was that it was
11:58:54 15 overly broad and unduly burdensome.

11:58:56 16 **Q.** Sure.

11:58:57 17 **A.** So I don't know. You know. You make
11:58:59 18 me answer yes or no. I don't know what other
11:59:02 19 documents may be out there.

11:59:03 20 **Q.** Okay. I'm just asking, documents that
11:59:05 21 you have. As far as you know, you don't have any
11:59:06 22 other documents that relate to this lawsuit other
11:59:09 23 than what you've given us or told us about?

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11:59:11 1 **A.** As far as I know, I do not.

11:59:12 2 **MR. WOODARD:** Okay. Thank you.

11:59:22 3 Let's mark this as the next exhibit.

11:59:22 4 **The following was marked for Identification:**

11:59:22 5 **EXH. H Transcript of judgment certificate**

12:00:00 6 **of disposition**

12:00:00 7 **BY MR. WOODARD:**

12:00:01 8 **Q.** Thank you.

12:00:02 9 Sir, I marked -- I'm showing you what's been

12:00:03 10 marked as Exhibit H.

12:00:05 11 **A.** Mm-hmm.

12:00:05 12 **Q.** Do you recognize what this is?

12:00:10 13 **A.** I believe this was a document that I

12:00:43 14 got from the county clerk's office.

12:00:45 15 **Q.** Okay. Do you recall when -- when you

12:00:47 16 got this document?

12:00:48 17 **A.** Well, it was about the time I was

12:00:51 18 getting a mortgage on my house.

12:00:53 19 **Q.** Okay. So when was that?

12:00:55 20 **A.** That would have been last year.

12:00:57 21 **Q.** Okay.

12:00:58 22 **A.** Early part of last year.

12:00:59 23 **Q.** So you got this document not in

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12:01:03 1 connection with the events at issue in this
12:01:04 2 lawsuit; you got it for a separate reason?

12:01:06 3 **A.** Yes, I did.

12:01:07 4 **Q.** Okay. And you saw that -- that William
12:01:16 5 J. Wagner, Jr., is listed as -- as a debtor on this
12:01:18 6 piece of paper?

12:01:18 7 **A.** That's right.

12:01:19 8 **Q.** Do you remember when in relation to the
12:01:22 9 events that we have talked about today you got this
12:01:24 10 piece of paper?

12:01:26 11 **A.** It might have been prior.

12:01:35 12 **Q.** So you think you got this before your
12:01:39 13 first interaction with Chiari & Ilecki?

12:01:40 14 **A.** I may have.

12:01:41 15 **Q.** Okay. And so I guess this just
12:01:44 16 confirms in your mind that there's some other
12:01:47 17 William J. Wagner, Jr., who apparently has -- has
12:01:52 18 incurred a debt to -- or has incurred a debt, I
12:01:58 19 guess I should say; is that correct?

12:02:00 20 **A.** Well, I wasn't sure what this was. It
12:02:04 21 was -- it was attached to my deed at the Erie
12:02:07 22 County Clerk's Office.

12:02:08 23 **Q.** Okay. Did you note that -- did it jump

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12:02:12 1 out at you the fact that a William J. Wagner, Jr.,
12:02:15 2 was listed --

12:02:16 3 **A.** Yes.

12:02:16 4 **Q.** -- on this?

12:02:16 5 **A.** Yes.

12:02:17 6 **Q.** So -- and it was attached to your deed
12:02:19 7 for your house at 5419 Roberts Road?

12:02:22 8 **A.** Yes.

12:02:22 9 **Q.** Have you -- other than what your
12:02:23 10 attorney's told you, do you know why -- has anyone
12:02:28 11 told you why this was attached to your deed?

12:02:30 12 **A.** No.

12:02:30 13 **Q.** Have you -- have you looked into that
12:02:32 14 at all, other than what -- with your attorney?

12:02:34 15 **A.** I asked them at the Erie County Clerk's
12:02:41 16 Office. They didn't know.

12:02:42 17 **Q.** Okay. But --

12:02:44 18 **A.** I'm not sure who put it there.

12:02:47 19 **Q.** And you have no reason to believe
12:02:49 20 Chiari & Ilecki did this, do you?

12:02:51 21 **A.** I don't know who did it. I just said
12:02:53 22 that.

12:02:53 23 **Q.** Okay. But -- so it appears that --

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12:02:56 1 that someone other than Chiari & Ilecki -- or
12:02:59 2 someone else links William J. Wagner, Jr., to your
12:03:04 3 address, then.

12:03:05 4 **A.** I don't know who did it.

12:03:06 5 **Q.** But someone did?

12:03:07 6 **A.** Someone did.

12:03:17 7 **MR. WOODARD:** Okay. Okay. If you could
12:03:24 8 just give me a couple minutes to look through my
12:03:27 9 notes.

12:03:27 10 **MR. ANDREWS:** Sure.

12:03:28 11 **MR. WOODARD:** I think I may be just about
12:03:31 12 done.

12:03:34 13 (A recess was then taken.)

12:06:05 14 **BY MR. WOODARD:**

12:06:05 15 **Q.** Ready? Just a couple more questions,
12:06:08 16 Mr. Wagner.

12:06:09 17 In -- in what regard did you feel harassed
12:06:14 18 by the events that we've discussed here today?

12:06:20 19 **A.** Well, as I said, I kept giving
12:06:24 20 information, and I kept getting letters and phone
12:06:27 21 calls and things back, so --

12:06:28 22 **Q.** Did Chiari & Ilecki ever call you?

12:06:31 23 **A.** No. They sent a letter, and I called

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12:06:33 1 them three times.

12:06:35 2 **Q.** Okay. Aside from the -- the letter and
12:06:39 3 the subpoena, was there anything else about Chiari
12:06:44 4 & Ilecki's actions that you found harassing?

12:06:49 5 **A.** Which -- which letter are you talking
12:06:52 6 about now?

12:06:52 7 **Q.** Aside from the -- any letter or
12:06:55 8 subpoena that we've already discussed, was there
12:06:58 9 anything else that Chiari & Ilecki did that you
12:07:01 10 would characterize as harassing?

12:07:05 11 **A.** I would say no.

12:07:06 12 **Q.** Okay. And they weren't rude to you
12:07:08 13 on -- on the phone?

12:07:09 14 **A.** No. Nobody was rude to me.

12:07:12 15 **Q.** Were they polite and listened to you?

12:07:15 16 **A.** I would say they were.

12:07:16 17 **MR. WOODARD:** Okay. All right. I think
12:07:18 18 that's all I have. So thank you very much for your
12:07:20 19 time today.

12:07:21 20 **THE WITNESS:** Okay.

12:07:22 21 **MR. WOODARD:** I appreciate it.

12:07:22 22 **MR. ANDREWS:** I actually have just a few
12:07:24 23 quick questions.

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12:07:25 1 **MR. WOODARD:** Yeah. Do you want to switch

12:07:27 2 or --

12:07:27 3 **MR. ANDREWS:** No. That's fine. That's

12:07:29 4 fine.

12:07:31 5 Can we mark this as -- I don't know.

12:07:33 6 Whatever the last one is. Unless you want to do --

12:07:36 7 you didn't do Defendant's, right?

12:07:37 8 **MR. WOODARD:** I did not.

12:07:39 9 **MR. ANDREWS:** I don't know. It's up to you.

12:07:42 10 Want to do 1?

12:07:43 11 **MR. WOODARD:** Sure. Yeah.

12:07:44 12 **MR. ANDREWS:** Let's just mark this as 1.

12:07:47 13 That way we know it's ours.

12:07:50 14 **MR. WOODARD:** Yeah. Absolutely.

12:07:50 15 **The following was marked for Identification:**

12:07:50 16 **EXH. 1 Application**

12:08:25 17

12:08:25 18 **EXAMINATION BY MR. ANDREWS:**

12:08:25 19

12:08:25 20 **Q.** Okay. Mr. Wagner, I'm showing you a

12:08:29 21 document that's been marked as Exhibit 1.

12:08:31 22 **A.** Yes.

12:08:31 23 **Q.** It is entitled an application and it

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12:08:34 1 looks like for an address 82 Englewood, Number 4.

12:08:38 2 Do you see that?

12:08:39 3 **A.** Where is that?

12:08:41 4 **Q.** At the top left of the document. The
12:08:44 5 address rented. 82 Englewood, Number 4?

12:08:48 6 **A.** Oh, I see. Yes.

12:08:49 7 **Q.** Okay. Did you fill out this
12:08:51 8 application?

12:08:53 9 **A.** No, I did not.

12:08:53 10 **Q.** Have you ever lived at 82 Englewood,
12:08:56 11 Number 4?

12:08:56 12 **A.** No, I did not.

12:08:57 13 **Q.** Is your Social Security number
12:09:00 14 [REDACTED]-9006?

12:09:01 15 **A.** No.

12:09:01 16 **Q.** Okay. Have you ever lived at 356 looks
12:09:08 17 like Hartford Road, Amherst, New York 14226,
12:09:12 18 looking, again, at the middle of the document
12:09:15 19 underneath the residence and rental record?

12:09:17 20 **A.** No. I never lived there.

12:09:19 21 **Q.** Okay. Let's turn to the back. The
12:09:26 22 last page.

12:09:32 23 **MR. WOODARD:** That's Bates number 58?

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12:09:33 1 **MR. ANDREWS:** Yeah.

12:09:34 2 **MR. WOODARD:** Okay.

12:09:34 3 **BY MR. ANDREWS:**

12:09:35 4 **Q.** And there, you see a signature under

12:09:37 5 the signature line, William J. Wagner, Jr.?

12:09:40 6 There's a signature there. Do you see that?

12:09:41 7 **A.** Yes.

12:09:42 8 **Q.** Is that your signature?

12:09:43 9 **A.** No, it is not.

12:09:45 10 **MR. ANDREWS:** Okay. That's all I have.

12:09:48 11 **MR. WOODARD:** No questions.

12:09:49 12 **MR. ANDREWS:** All right.

13 (Deposition concluded at 12:09 p.m.)

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1 I hereby CERTIFY that I have read the
2 foregoing 98 pages, and that they are a true and
3 accurate transcript of the testimony given by me in
4 the above entitled action on October 3, 2016.

5
6
7 -----
8 WILLIAM JOSEPH WAGNER
9
10
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21
22
23

1 STATE OF NEW YORK)

2 ss:

3 COUNTY OF ERIE)

4

5 I DO HEREBY CERTIFY as a Notary Public in and
6 for the State of New York, that I did attend and
7 report the foregoing deposition, which was taken
8 down by me in a verbatim manner by means of machine
9 shorthand. Further, that the deposition was then
10 reduced to writing in my presence and under my
11 direction. That the deposition was taken to be
12 used in the foregoing entitled action. That the
13 said deponent, before examination, was duly sworn
14 to testify to the truth, the whole truth and
15 nothing but the truth, relative to said action.

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MARY SCHULZE, RPR, RMR,
Notary Public.

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